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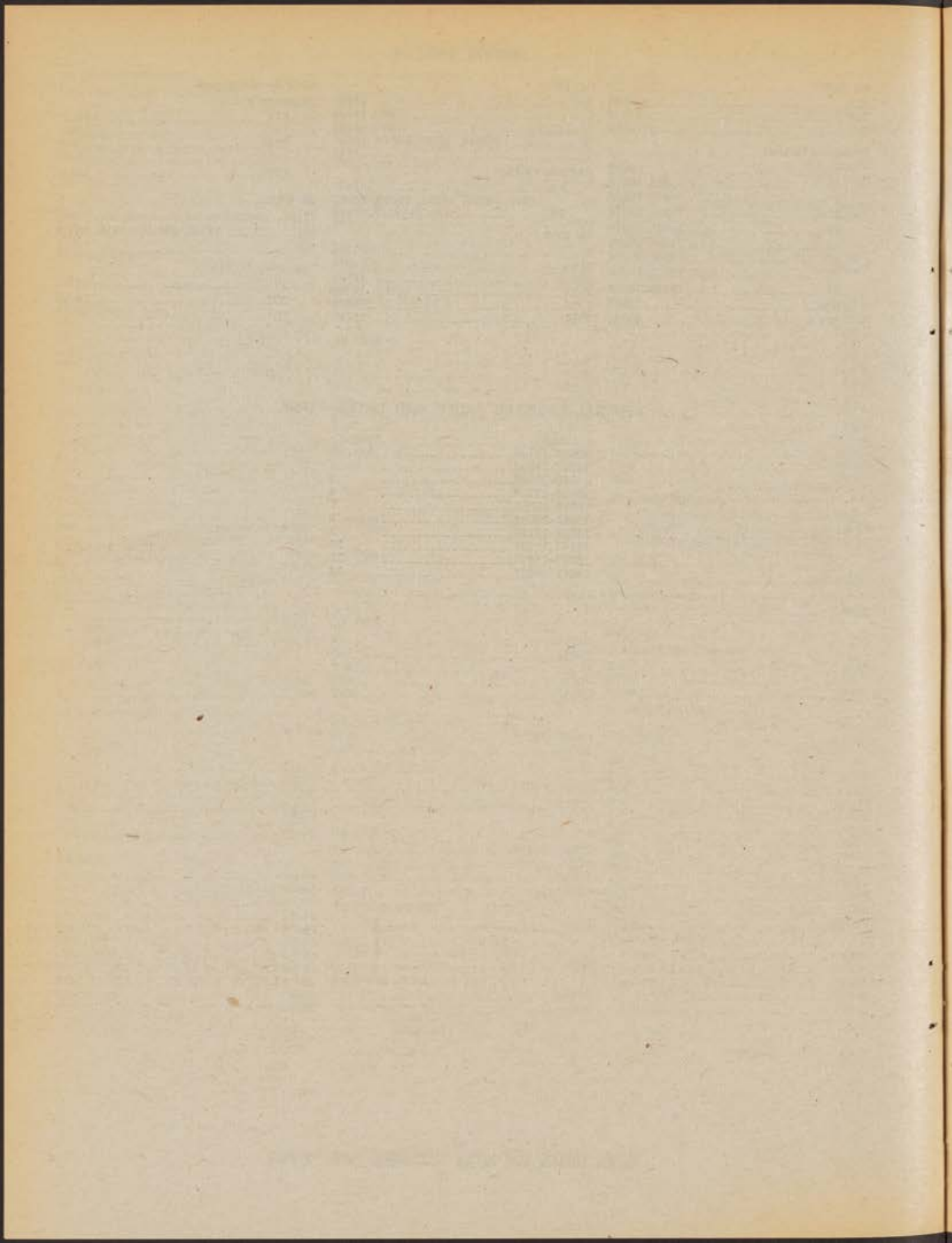
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Title 3—The President

PROCLAMATION 4365

National Defense Transportation Day and National Transportation Week, 1975

By the President of the United States of America

A Proclamation

Throughout the history of the United States, our progress as a Nation has been closely tied to progress in the development of our transportation system. Generations of men and women who pioneered and developed the great networks by which we move goods and people today stand high in the ranks of those who have helped make America great.

As the Nation grew, so did its need for mobility. During the last century, this need was well served by expanding rail and water transportation systems. Today, the need is served by a broader range of systems. Motor vehicles and aircraft provide rapid access to every region.

There are still changing needs and new demands for the movement of our people and the goods they produce. Yesterday's methods may not be adequate to overcome the problem of congestion in many of our large population centers. Also, fuels that have powered our transportation machinery in the past may not be sufficient to meet the demands of the future.

So, once again, we look to the people in our transportation industry to make the adjustments required by the changing times. We look to them with the confidence that they will perform as they have in the past and provide improvements that will ensure fast, safe, efficient, and convenient transportation.

In acknowledgement of the importance of our transportation system, the Congress, by a joint resolution approved May 16, 1957 (71 Stat. 30, 36 U.S.C. 160), requested the President to proclaim the third Friday in May of each year as National Defense Transportation Day, and, by a joint resolution approved May 14, 1962 (76 Stat. 69, 36 U.S.C. 166), requested the President to proclaim the week in which that Friday falls as National Transportation Week.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate Friday, May 16, 1975, as National Defense Transportation Day, and the week beginning May 11, 1975, as National Transportation Week.

I particularly urge that governors and other elected officials as well as the people of America join with the Department of Transportation in observing this week. It is an observance that is well deserved.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

Gerald R. Ford

[FR Doc. 75-9737 Filed 4-10-75; 12:43 pm]

PROCLAMATION 4366

Pan American Day and Pan American Week

By the President of the United States of America

A Proclamation

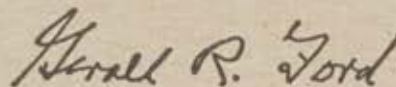
Each year, we and other members of the Organization of American States celebrate our shared origins and the close ties that continue to flourish among us. To do this, we commemorate a significant event in the diplomatic history of the Western Hemisphere—the founding, late in the last century, of the International Union of the American Republics. This year marks the 85th anniversary of the establishment of that first inter-governmental regional organization and forerunner of the Organization of American States.

From its earliest days, the organization has taken for its two major objectives the maintenance of peace and the promotion of economic, social and cultural development in the Americas. The strength and longevity of inter-American cooperation in furtherance of these goals derives from its tested ability to evolve and reconstitute itself to meet new realities and new challenges over the years.

In the Americas, we have come to recognize the fresh challenge presented by a new interdependence, which is global as well as hemispheric, linking developed with less developed countries both in and beyond the hemisphere. We sense the opportunity for effective inter-American cooperation to advance our traditional goals of peace and progress for our hemisphere while strengthening the global cooperation decreed by our world.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim Monday, April 14, 1975, as Pan American Day, and the week beginning April 13, 1975, as Pan American Week, and I call upon the Governors of the fifty states, the Governor of the Commonwealth of Puerto Rico, and appropriate officials of all other areas under the flag of the United States to issue similar Proclamations.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of April, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.



[FR Doc.75-9835 Filed 4-11-75;11:11 am]

THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES

OF AMERICA

FROM 1776 TO 1876

The history of the United States is a story of growth and development. It begins with the first settlers who came to the New World in search of a better life. They found a land of opportunity, but also a land of conflict. The struggle for independence was a long and hard one, but it was worth the effort. The United States emerged as a new nation, free from the control of a foreign power. The next century was a time of rapid growth and expansion. The United States became a world power, and its influence was felt in every corner of the globe. The Civil War was a turning point in the nation's history. It was a war of great significance, and it shaped the course of the country's future. The Reconstruction era was a time of great change and progress. The United States emerged from the war as a more unified and powerful nation. The next century was a time of continued growth and development. The United States became a world leader in science, technology, and industry. The Great Depression was a time of great hardship and suffering, but it was also a time of great achievement. The United States emerged from the depression as a more powerful and resilient nation. The next century was a time of continued growth and development. The United States became a world leader in science, technology, and industry. The Vietnam War was a time of great conflict and controversy, but it was also a time of great achievement. The United States emerged from the war as a more powerful and resilient nation. The next century was a time of continued growth and development. The United States became a world leader in science, technology, and industry. The 9/11 attacks were a time of great tragedy and loss, but they were also a time of great achievement. The United States emerged from the attacks as a more powerful and resilient nation. The next century was a time of continued growth and development. The United States became a world leader in science, technology, and industry.

THE HISTORY OF THE
REPUBLIC OF THE UNITED STATES
OF AMERICA
FROM 1776 TO 1876

EXECUTIVE ORDER 11851

Delegation of Authority To Issue Regulations Limiting Imports of
Certain Cheeses

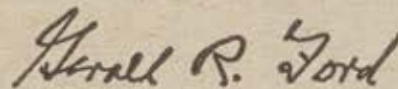
By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of the Treasury, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, in order to implement an agreement concluded in December 1974 with the Commission of the European Communities designed to prevent the transshipment to the United States of certain cheeses on which restitution payments have been made, is authorized to issue regulations:

(a) to prevent the importation into the Customs Territory of the United States, except for the Commonwealth of Puerto Rico, of certain cheeses, originating in member states of the European Communities, upon which restitution payments have been made for export to (1) Puerto Rico, the Virgin Islands, other United States possessions and territories or (2) any country other than the United States;

(b) to prevent the importation of such cheeses into the Commonwealth of Puerto Rico if such cheeses are imported into the Commonwealth of Puerto Rico for transshipment to other areas of the Customs Territory of the United States.

SEC. 2. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of issuing regulations delegated to the Secretary of the Treasury by Section 1 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.



THE WHITE HOUSE,
April 10, 1975.

[FR Doc. 75-9736 Filed 4-10-75; 12: 43 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Bagging and Bale Tie Specifications

On June 5, 1974, the Department announced (USDA 1558-74) that specifications applicable to bale packaging materials for cotton tendered to Commodity Credit Corporation will be continued for the 1975 crop of cotton, augmented or amended by any additions or changes as recommended by the Cotton Industry Bale Packaging Committee and approved by CCC. After consideration of the recommendations made by the Cotton Industry Bale Packaging Committee at its meeting held February 25-26, 1975, it has been determined that the specifications should be amended to include warp knitted cotton bagging, to increase the minimum weight for cotton bagging, to provide a maximum length for fixed-length ties for flat bales, to require all bale ties and buckles to be coated or finished with a rust inhibitor, to eliminate polyethylene scrim laminate sheets as an eligible packaging material, and to include test methods for warp knitted cotton bagging. Manufacturers, ginners, and producers must immediately make plans to manufacture, distribute and/or purchase these packaging materials; it is essential that these specifications be made effective as soon as possible. Since the Cotton Industry Bale Packaging Committee is comprised of representatives from all seven segments of the cotton industry, it is therefore found and determined that compliance with the notice of proposed rule making procedure is impractical and contrary to the public interest. Accordingly, the Specifications for Bagging and Bale Ties Used in Wrapping Cotton published in 39 FR 20364, are hereby revised to read as shown below.

The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

Sec.

- 1427.1901 Purpose.
- 1427.1902 Specifications for bale ties and buckles.
- 1427.1903 Specifications for bagging.
- 1427.1904 Test methods.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070, as amended; sec. 101, 103, 401, 63 Stat. 1051, as amended (15 U.S.C. 714 (b) and (c); 7 U.S.C. 1441, 1444, 1421).

§ 1427.1901 Purpose.

This subpart is for the purpose of announcing the bagging and bale tie specifications applicable to packaging the 1975 and subsequent crops of cotton tendered to CCC for loans, unless otherwise approved by the Executive Vice President, CCC, or his designee: *Provided, however,* That all bales of cotton packaged and identified with the testing programs of the Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council will be exempt from the provisions of this subpart, and any bale packaging materials carried over from 1974 or manufactured prior to February 27, 1975, which was eligible for packaging 1974-crop loan cotton also may be used to package 1975-crop cotton pledged for loans.

§ 1427.1902 Specifications for bale ties and buckles.

Any fixed length bale ties used on flat bales shall not exceed 10 feet 3 inches in length. All ties and buckles or fasteners must be coated or finished with a rust inhibitor.

(a) *General requirements*—(1) *Number of ties required.* (i) Flat bales (bales having densities of less than 20 pounds) must have not less than 6 ties.

(ii) Standard density bales (bales having densities of at least 20 pounds, but less than 28 pounds per cubic foot) must have not less than 8 ties.

(iii) Universal density bales (bales having densities of 28 pounds or more per cubic foot) must have not less than 8 ties.

(2) *Flat bales packaged with nonreusable ties.* Except for bales stored only in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, if the ties on a bale are not suitable for reuse when the bale is compressed, the ties will not be deemed to meet these specifications unless the producer has prepaid any warehouse charge for furnishing new bale ties. If the bale is stored at a warehouse not having compress facilities and bales shipped from the warehouse are normally compressed in transit, the warehouse receipt must show that the bale ties are not suitable for reuse when the bale is compressed, and the charge assessed by the nearest compress in line of transit for furnishing new bale ties will be deducted from the loan proceeds.

(b) *Conventional hot rolled steel ties and buckles.* The total weight of bale ties and buckles to tie each bale of cotton shall be not less than 8½ pounds.

(c) *Cold rolled high tensile steel strapping.* The supplier's name or trademark

must be printed or embossed on every 36 inches of strapping.

(1) *For use on flat bales and standard density and universal density bales compressed at a warehouse.* The strapping shall have a minimum width of three-fourths of an inch and minimum thickness of 0.025 inch with zero tolerance, minimum weight of 1 pound per 15.7 linear feet of strapping or 4 pounds per bale of cotton, minimum breaking strength of 2,400 pounds with a joint strength of not less than 2,040 pounds.

(2) *For use on gin standard density and gin universal density bales.* The strapping shall have a minimum width of three-fourths of an inch and minimum thickness of 0.031 inch with zero tolerance, minimum weight of 1 pound per 12.7 linear feet of strapping or 5 pounds per bale of cotton, and minimum breaking strength of 3,200 pounds with a joint strength of not less than 2,720 pounds for gin standard density bales or 4,000 pounds with a joint strength of not less than 3,400 pounds for gin universal density bales.

(d) *Wire ties.* (1) *For use on flat bales and bales compressed to standard density and universal density at a warehouse.* The ties shall not be smaller than 10-gauge or 0.135 inch diameter wire with a plus or minus tolerance of 1 percent. When used on flat bales, and on bales compressed to standard density and universal density with the joints placed on the tops of the bales, the breaking strength of wire must not be less than 2,850 pounds with a joint strength of not less than 1,850 pounds. If the joints are placed on the sides of bales compressed to standard density and universal density, the breaking strength of the wire must not be less than 2,850 pounds with a joint strength of not less than 2,565 pounds. The elongation of the wire shall not exceed 4 percent in 10 inches. There must be a minimum weight of 3 pounds per bale.

(2) *For use on gin standard density and gin universal density bales.* The ties shall be 9-gauge or 0.148 inch diameter wire with a plus or minus tolerance of 1 percent. The breaking strength of the wire must not be less than 3,400 pounds with a joint strength of not less than 2,100 pounds with the joints placed on the tops of the bales. If the joints are placed on the sides of the bales the breaking strength of the wire must not be less than 3,200 pounds with a joint strength of not less than 3,040 pounds. There must be a minimum weight of 4 pounds per bale.

§ 1427.1903 Specifications for bagging.

Except in cases where shrink-pack polyethylene bags are used, each bale must be wrapped with a pattern of bagging consisting of two pieces (panels) of bagging material. All bagging material must be clean, in sound condition, and of sufficient strength to adequately protect the cotton. The material must not have salt or other corrosive material added and must not contain sisal or other hard fiber or any other material which will contaminate or adversely affect cotton as determined by the President or Executive Vice President, Commodity Credit Corporation.

(a) *New jute bagging used to wrap flat bales.* Each one-half pattern (panel) of new jute bagging must not be less than 108 inches or more than 115 inches in length and must not be less than 47 inches or more than 56 inches in width. The bagging must contain not less than 41 warp yarns per 12 inches of bagging of a size equal to or larger than the weft (filling) yarns and must contain not less than 25 weft (filling) yarns per 12 inches of bagging. The bagging must weigh not less than 11¼ and not more than 13¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(b) *New jute bagging used to wrap gin standard density and gin universal density bales.* Each one-half pattern (panel) must not be less than 96 inches or more than 102 inches in length and must not be less than 40 inches or more than 48 inches in width. The bagging must contain not less than 150 warp yarns per 40 inches of bagging of a size equal to or larger than the weft (filling) yarns, must contain not less than 25 weft (filling) yarns per 12 inches of bagging, and must weigh not less than 7½ and not more than 8¾ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain). *Provided*, That new jute bagging material meeting the warp and weft requirements for jute bagging used on flat bales and weighing not less than 8¾ and not more than 11¼ pounds per pattern at 13.75 percent moisture content (not moisture regain) may be used to wrap gin standard density and gin universal density bales.

(c) *Salvage jute (burlap) bagging.* (1) *General requirements.* The bagging must be processed specifically for cotton bale coverings from once-used good quality closely woven heavy jute bags previously used for sugar, coffee, cocoa, or other products approved by the President or Executive Vice President, CCC. Each one-half pattern (panel) must be composed of not more than three pieces of used bag cloth of the same construction and weight. There must not be more than two crosswise sewn seams and no lengthwise sewn seams in any one-half pattern. (Seams, hems, and necessary patches in the original bags from which the bagging is made will not be considered sewn seams.) Overlap at seams and patches must not be greater than 3½ inches. Overlaps, patches, and hems sewn into bagging to increase the weight of light-

weight material will not be permitted. Sewn seams must be such that the edges of the joined pieces coincide to make a symmetrical one-half pattern without appreciable displacement of the edge of one piece of bagging relative to the edge of the adjoining piece in the seam. Sewing must be with strong thread with not larger than ¾ inch stitching.

(2) *To wrap flat bales.* Each one-half pattern (panel) must not be less than 108 inches or more than 115 inches in length and must not be less than 47 inches or more than 56 inches in width. The bagging must weigh not less than 11¼ and not more than 13¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(3) *To wrap gin standard density and gin universal density bales.* Each one-half pattern (panel) must not be less than 40 inches or more than 48 inches in width and must not be less than 96 inches or more than 102 inches in length. The bagging must weigh not less than 7½ and not more than 11¼ pounds per pattern (two panels) at 13.75 percent moisture content (not moisture regain).

(d) *Cotton bagging.* (1) *General requirements.* Bagging made from 100 percent cotton may be used to wrap flat bales stored only in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, and on gin standard density and gin universal density bales stored in all States. The bagging must weigh not less than 6.4 ounces per square yard with a minimum weight of 3 pounds per pattern for flat bales, 2.7 pounds for gin standard density bales, and 2.6 pounds for gin universal density bales, at 8.5 percent moisture content (not moisture regain). Each panel of bagging must not be less than 44 inches in width, and 110 inches in length for flat bales, 100 inches in length for gin standard density bales and 96 inches in length for gin universal density bales. Each panel must be constructed with true selvages on each side.

(2) *Woven.* The bagging must contain not less than 120 warp yarns (plied or single) per 12 inches of bagging of a size equal to or larger than the weft (filling) yarns, and must contain not less than 78 weft (filling) yarns (plied or single) per 12 inches of bagging.

(3) *Warp knitted.* The bagging must be constructed with not less than two guide bars. The bagging must contain not less than 5 wales per inch and not less than six courses per inch. All yarns (plied or single) must be form connected with each other. The bagging must have stabilized construction with elongation or stretch not less than 15 percent or more than 30 percent. Variation in tensile strength in wale and course direction must not exceed 20 percent. The bagging must have a minimum bursting strength of 75 pounds.

(e) *Polyethylene used to wrap gin standard density and gin universal density bales.* (1) *General requirements.* (i) *Density.* Low density virgin polyethylene.

(ii) *Color.* The bagging must be clear.

(iii) *Gauge.* The gauge shall be not less than 8 mil.

(iv) *Gauge tolerance.* The average of any 20 evenly spaced points around the length and width of a sheet or bag must be within plus or minus 10 percent of 8 mil. Yield on any order of 2,000 pounds or more shall not vary more than plus or minus 3 percent from the nominal yield.

(v) *Tensile strength.* For machine (length) direction, not less than 2,500 pounds per square inch, and for transverse (cross) direction, not less than 2,000 pounds per square inch.

(vi) *Elongation.* For both machine (length) and transverse (cross) direction, not less than 400 percent.

(vii) *Impact resistance.* Not less than 450 grams.

(viii) *Slip characteristics.* Bagging must be low slip (coefficient of friction not less than .50) with no anti-block or slip additive included.

(ix) *Tagging.* A piece of woven yarn scrim not less than 5 inches by 7 inches and laminated on each side with polyethylene must be placed inside the bag or sheet on head of bale and heat welded to the cover or some other suitable reinforcing material must be bonded to the bag or sheet.

(x) *Tare weight.* Tare weight shall be not less than 2 pounds per pattern or shrink-pack bag.

(xi) *Sealing head of bales.* Extra precaution must be taken in sealing heads of bales to provide maximum coverage and protection.

(2) *Additional requirements for polyethylene sheets.* Each sheet used to wrap gin standard density bales shall be not less than 100 inches in length by 46 inches in width. Each sheet used to wrap gin universal density bales shall be not less than 96 inches in length by 42 inches in width when used on 54 inch by 20 inch presses and not less than 92 inches in length by 44 inches in width when used on 50 inch by 20 inch presses. Guide marks shall be imprinted on sheets in order that press may be dressed properly.

(3) *Additional requirements for polyethylene shrink-pack bags.* Only gusseted bags shall be used. Each bag shall be not less than 87 inches in length when used on 54 inch by 20 inch presses and not less than 83 inches in length when used on 50 inch by 20 inch presses. The ratio of machine (length) direction shrink to the transverse (cross) direction shrink must not exceed 1.5:1.

§ 1427.1904 Test methods.

The following testing methods will be used by CCC in determining whether bagging and bale ties and buckles or fasteners used to package cotton tendered for CCC loans beginning with the 1975 crop of cotton meets the above specifications. Except for polyethylene shrink-pack bags, each sample of bagging selected for testing will consist of one-half pattern. (Each sample of polyethylene shrink-pack bag will consist of one bag.)

(a) *Weight and strength of bale ties and buckles.* The bale ties and buckles will be weighed on suitable accurate

scales and the weight determined to the nearest one-half pound. A bundle or package of ties and buckles may be weighed and averaged to determine the weight of ties and buckles necessary to package a bale of cotton. For high tensile steel strapping, a given number of feet of strapping will be weighed to determine the number of feet of strapping per pound. Breaking strength and joint strength tests will be made only when determined to be necessary.

(b) *Length.* The length of the sample will be measured directly using a measuring stick, steel tape, or other suitably graduated device. The sample will be laid out flat on a smooth horizontal surface and the length measured. Both selvages for jute and cotton panels will be measured, and for polyethylene sheets and shrink-pack bags the length of each side will be measured. The length of the sample will be the average of the two measurements rounded to the nearest inch. Jute and cotton measurements will be made on the sample in equilibrium with standard atmospheric conditions as specified in A.S.T.M. D 1776-62-T.

(c) *Width.* The width of the sample will be measured directly using a measuring stick, steel tape, or other suitably graduated device and will include the selvages. The sample will be laid out flat on a smooth horizontal surface and the measurements made perpendicular to the lengths (selvages in the case of jute and cotton). Three width measurements will be taken on each sample. One measurement will be made at the center of the sample and two other measurements will be made approximately 12 inches from each end of the sample. The average of the three measurements rounded to the nearest inch, will be the width. Jute and cotton measurements will be made on the sample in equilibrium with standard atmospheric conditions as specified in A.S.T.M. D 1776-62-T.

(d) *Warp yarn count.* For new jute and woven cotton bagging, the number of warp ends in the width of the sample, including the selvages, will be counted at each end of the sample. The average of the two counts will be divided by the width, as determined above. This figure will be multiplied by 12 to determine warp yarns per 12 inches of bagging or by 40 to determine warp yarns per 40 inches of bagging.

(e) *Wet yarn count.* The number of wet (filling) yarns over a measured length of 36 inches on each sample of new jute and woven cotton bagging will be counted. The number counted divided by 3 will be the wet yarn count per 12 inches.

(f) *Weight of bagging.* The weight of bagging will be determined by weighing on suitable accurate scales and the weight per pattern determined to the nearest one-tenth pound. Several patterns (or bales of bagging patterns) may be weighed simultaneously and the weight averaged. The weight for jute bagging will be calculated on the basis of 13.75 percent moisture content (not moisture regain) and for cotton bagging

on the basis of 8.5 percent moisture content (not moisture regain).

(g) *Wale count of warp knitted cotton bagging.* The number of wales or ribs running lengthwise of the sample will be counted over a measured width (relaxed state) of 12 inches on each sample. The number counted divided by 12 will be the wale count per inch.

(h) *Course count of warp knitted cotton bagging.* The number of courses or loops which form a line horizontal to the wales or ribs will be counted over a measured length (relaxed state) of 12 inches on each sample. The number counted divided by 12 will be the course count per inch.

(i) *Additional tests on warp knitted bagging.* Elongation or stretch properties will be tested at one pound per inch static load using methods as specified in A.S.T.M. D 2594. Bursting strength will be tested on an approved type of constant rate of traverse machine equipped with a bursting attachment (ball burst) as specified in A.S.T.M. D 231.

(j) *Additional tests for polyethylene sheets and polyethylene shrink-pack bags.* The gauge and gauge tolerance shall be tested in accordance with A.S.T.M. D 374. The tensile strength and elongation shall be tested in accordance with A.S.T.M. D 882-67. Impact resistance shall be tested in accordance with A.S.T.M. Method B 1709-67. Slip characteristics shall be tested in accordance with A.S.T.M. D 1894. The ratio of machine direction shrink to transverse

direction shrink will be calculated in accordance with A.S.T.M. D 2732.

Effective date. This subpart is effective for all loans made on the 1975 and subsequent crops of cotton.

Signed at Washington, D.C. on April 8, 1975.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.75-9584 Filed 4-11-75;8:45 am]

[Amdt. 1]

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program for Milk

The United States Department of Agriculture has announced increases, effective for the marketing year beginning April 1, 1975, in the Commodity Credit Corporation support purchase prices for butter and cheese purchased under the dairy price support program as provided herein. Accordingly, § 1430.282 (b)(1) and (b)(2) are revised to read as follows:

§ 1430.282 Price support program for milk.

(b)(1) CCC will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

Commodity and location	Produced before January 4, 1975	Produced January 4 through March 31, 1975	Produced on or after April 1, 1975
[Cents per pound]			
Cheddar cheese: U.S. grade A or higher: (Standard moisture basis, 37.8-39.0 percent) ¹	79.75	77.25	79.25
Nonfat dry milk, spray process:			
U.S. extra grade ²	56.5	60.5	60.6
Butter: U.S. grade A or higher:			
New York, N.Y., and Jersey City, Newark, and Secaucus, N.J.	62.00	69.50	70.75
Alaska, Hawaii, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and South Carolina.	61.00	68.50	(9)
Seattle, Washington; San Francisco, California; California, Idaho, Oregon, Washington.	59.00	66.50	(9)

¹ For cheese which is offered on a "dry" basis (less than 37.8 percent moisture) the price per pound shall be as indicated in Form ASCS-150. Copies are available in offices listed in (a)(4).

² If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.25 cent (3/4 cent) per pound of nonfat dry milk.

³ No specific price announced—price determined by freight rate calculations.

(2) Offers to sell butter at any location not specifically provided for in this section (New York City, San Francisco, and Seattle for dairy products produced before April 1, 1975; New York City only for dairy products produced after that date) will be considered at the price set forth in this section for the designated market named by the seller, less 80 percent of the lowest published domestic railroad carlot freight rate per pound gross weight for a 60,000 pound carlot, in effect at the beginning of each marketing year (April 1), from such location to the designated market. However, for dairy products produced beginning

April 1, 1975, no price at any location shall be less than 67.75 cents per pound. In the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, CCC will purchase only bulk butter produced in that area; butter produced in other areas is ineligible for offering to CCC in these States.

(Sec. 201, 401, 63 Stat. 1052, 1054, as amended; Sec. 4(d), 62 Stat. 1070, as amended; 7 U.S.C. 1446, 1421, 15 U.S.C. 714b (d))

Signed at Washington, D.C., on April 3, 1975.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corp.

[FR Doc. 75-9547 Filed 4-11-75; 8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Release of Areas Quarantined

This amendment excludes a portion of Duval and portions of Kleberg and Jim Wells Counties in Texas from the areas quarantined because of splenic or tick fever. Therefore, the regulations pertaining to the interstate movement of cattle and certain materials from quarantined areas as contained in 9 CFR Part 72, as amended, will not apply to the excluded areas, but the restrictions in Part 72 pertaining to interstate movement from nonquarantined areas will apply to the excluded areas.

Accordingly, § 72.5 of Part 72, Title 9, Code of Federal Regulations, as amended, which quarantines certain portions of Texas because of splenic or tick fever in cattle, a contagious, infectious, and communicable disease, is hereby amended in the following respects:

In § 72.5, paragraphs (i) and (k) are amended to read:

§ 72.5 Areas quarantined in Texas.

(i) That portion of Jim Wells and Kleberg Counties bounded by a line beginning at the junction of Farm Road 1352 and Farm Road 1930 in Jim Wells County, approximately 3 miles southeast of Alice, Texas; thence, following Farm Road 1930 in an easterly direction to the west fence of the Horace Evetts Pasture, approximately 3 miles; thence, following the west fence of the Horace Evetts Pasture in a northerly direction to the northwest corner of the same, approximately $1\frac{1}{10}$ miles; thence, following the meanderings of the north and east fence of the Horace Evetts Pasture in a southeasterly direction to Farm Road 1930, approximately $\frac{3}{10}$ mile; thence following Farm Road 1930 in a northerly direction to Farm Road 665, approximately $1\frac{1}{10}$ miles; thence, following the meanderings of Farm Road 665 in an easterly direction to the Jim Wells-Nueces County line, approximately 4 miles; thence, following the Jim Wells-Nueces County line in a southerly direction to the Jim Wells-Kleberg County line, approximately 6 miles; thence, following the east fence of the King Ranch Gato Pasture in a southerly direction into Kleberg County to the southeast corner of the King Ranch Gato Pasture, approximately 1 mile; thence, following the south fence of the King Ranch Gato

Pasture in a northwesterly direction to the east fence of the King Ranch Partidas Trap, approximately 1 mile; thence, following the east fence of the King Ranch Partidas Trap in a southerly direction to the southeast corner of the same, approximately $\frac{1}{2}$ mile; thence following the south fence of the King Ranch Partidas Trap in a westerly direction to the southwest corner of the same, approximately 3 miles; thence, following the west fence of the King Ranch Partidas Trap in a northerly direction to the Kleberg-Jim Wells County line, approximately $1\frac{1}{4}$ miles; thence, following the Kleberg-Jim Wells County line in a westerly direction to the east fence of the George Stacey property, approximately $\frac{1}{2}$ mile; thence, following the east fence of the George Stacey property in a northwesterly direction to the northeast corner of the same to the west fence of the Blas Garcia premises approximately $\frac{1}{2}$ mile; thence, following the west fence of the Blas Garcia premises to Farm Road 2508, approximately $\frac{3}{10}$ mile; thence, following Farm Road 2508 in an easterly direction approximately 4 miles, then in a northwesterly direction to Farm Road 1352, approximately $1\frac{1}{2}$ miles; thence, following Farm Road 1352 in a northwesterly direction to its junction with Farm Road 1930, approximately 4 miles.

(k) That portion of Jim Wells County bounded by a line beginning at the junction of County Road 308 and State Highway 624, approximately 16 miles north of Alice, Texas; thence, following State Highway 624 in an easterly direction to Farm Road 738, approximately 4 miles; thence, following the meanderings of Farm Road 738 in a southeasterly direction to County Road 306, approximately 3 miles; thence, following County Road 306 in a southerly direction, approximately 1 mile, then westerly approximately 1 mile, then southerly to County Road 308, approximately 1 mile; thence, following County Road 308 in a southeasterly direction to State Highway 359, approximately 1 mile; thence, following State Highway 359 in a southwesterly direction to County Road 208 at Alfred, Texas, approximately 3 miles; thence, following County Road 208 in a northwesterly, then northerly direction to County Road 308, approximately 3 miles; thence, following County Road 308 in a northwesterly, then northerly direction to its junction with State Highway 624, approximately $6\frac{1}{2}$ miles.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264-1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective on April 9, 1975.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of splenic or tick fever and should be made effective

promptly to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of April, 1975.

J. M. HEJL,
Deputy Administrator, Veterinary
Services, Animal and
Plant Health Inspection
Service.

[FR Doc. 75-9690 Filed 4-11-75; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airmpace Docket No. 75-SO-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On February 25, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 8108) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign several airways southeast of Atlanta, Ga. One of these airways was V-154 between Dublin, Ga., and Savannah, Ga., which was proposed for realignment via the intersection of the Dublin 121° and the Savannah 279° true radials to avoid an off-airway military training area. Since publication of the notice, more precise computations have revealed that to avoid the military training area, this segment of V-154 should be aligned via the Dublin 122° true radial in lieu of the Dublin 121° true radial. Action to make this change of one degree is taken herein. Since this is a minor change in which the public would not be particularly concerned, further notice and public procedure thereon are considered unnecessary.

The notice stated that V-5/V-51 would be realigned between Alma, Ga., and Athens, Ga., via Dublin, Ga. It is not necessary to change the description of V-5/V-51 since relocation of the Dublin VORTAC upon which the airways are based will effect the desired realignment.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is

amended, effective 0901 GMT, June 19, 1975, as hereinafter set forth.

§ 71.121 [Amended]

In § 71.121 (40 FR 307) the descriptions of airways are altered as follows:

1. V-154 is revised to read: "From Macon, Ga.; via Dublin, Ga.; INT of Dublin 122° and Savannah, Ga., 279° radials; to Savannah."

2. In V-70, all after "Vienna, Ga.," is deleted, and "to Allendale, S.C." is substituted therefor.

3. V-179 is revised to read: "From Dublin, Ga., to INT of Dublin 312° and Atlanta, Ga., 116° radials."

4. In V-267, "Dublin, Ga., 137° radials;" is deleted, and "Dublin, Ga., 151° radials;" is substituted therefor.

5. V-323 is revised to read: "From Eufaula, Ala., via Macon, Ga.; to INT Macon 331° and Atlanta, Ga., 117° radials."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 8, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.75-9561 Filed 4-11-75; 8:45 am]

[Airspace Docket No. 75-SO-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On February 27, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 8359) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the vertical extent of V-70 between Vienna, Ga., and Allendale, S.C. The purpose of the proposed amendment was to provide airspace for a military operational training area. Since publication of the notice, the military has agreed that they require alteration of the vertical extent of this airway only between the Oconee, Ga., and Millen, Ga., intersections. Since this action is within the scope of the original notice, further notice and public procedure are unnecessary.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0902 G.m.t., June 19, 1975, as hereinafter set forth.

§ 71.123 [Amended]

In § 71.123 (40 FR 307) the description of V-70 is amended by adding:

The portion of this airway above 9,000' MSL between the INT of Vienna 066° and Dublin, Ga., 121° radials and the INT of Allendale 247° and Augusta, Ga., 148° radials is excluded.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 7, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.75-9562 Filed 4-11-75; 8:45 am]

[Airspace Docket No. 74-AL-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Additional Control Area

On February 20, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 7464) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate additional control area upward from 14,500 feet MSL to FL 450 within an area west of the Alaskan Peninsula and north of control 1236 and south of control 1485.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

§ 71.163 [Amended]

Section 71.163 (40 FR 346) is amended by adding the following:

CONTROL 1236

That airspace extending upward from 14,500 feet MSL to FL 450 within an area bounded by a line beginning at latitude 60°57'00" N., longitude 165°17'00" W.; along the northern boundary of Control 1236 to latitude 60°17'00" N., longitude 168°42'00" W.; thence to latitude 62°35'00" N., longitude 175°00'00" W.; thence to latitude 65°00'00" N., longitude 168°58'23" W.; thence to latitude 68°00'00" N., longitude 168°58'23" W.; along the southern boundary of Control 1485 to latitude 68°00'00" N., longitude 165°30'00" W.; thence by a line 3 nautical miles from and parallel to the shoreline to the point of beginning, excluding that portion that lies within Continental Control Area, control areas, and transition areas at Nome and Kotzebue, Alaska.

(Secs. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a), and 1510), Executive Order 10854 (24 FR 9565) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 8, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.75-9560 Filed 4-11-75; 8:45 am]

[Airspace Docket No. 75-NE-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On Page 6369 of the FEDERAL REGISTER dated February 11, 1975 (40 FR 6370), the Federal Aviation Administration published a Notice of Proposed Rule Making which would designate a 700-foot Transition Area at Hopedale, Massachusetts.¹

Interested parties were given thirty (30) days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., May 22, 1975.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c) 1].

Issued in Burlington, Massachusetts, on April 2, 1975.

QUENTIN S. TAYLOR,
Director, New England Region.

§ 71.181 [Amended]

Amend § 71.181 (38 FR 569) of Part 71 of the Federal Aviation Regulations so as to add the following transition area:

HOPEDALE, MASSACHUSETTS

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Center, 42°06'25" N., 71°30'40" W., of the Hopedale Draper Airport, Hopedale, Massachusetts, within 5 miles southeast and 6.5 miles northwest of the 060° radial from the Putnam VORTAC, 41°57'19" N., 71°50'41" W., extending from the 6-mile radius area to the Putnam VORTAC, excluding that portion that coincides with the Danielson, Connecticut, and the Southbridge, Massachusetts, Transition Area.

[FR Doc.75-9563 Filed 4-11-75; 8:45 am]

[Docket No. 13929; Amendment No. 91-127]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Relaxation of Equipment Requirements in Group II Terminal Control Areas

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to relax the equipment requirements in Group II Terminal Control Areas (TCAs). The major effect of this amendment is to eliminate the requirement for automatic pressure altitude reporting equipment in these TCAs. In addition, this amendment provides for an exception to the requirement for a transponder for IFR flights operating to or from a secondary airport located outside of, but in close proximity to, a Group II TCA when the transition, approach or departure procedures for that airport involve flight within that TCA. Finally,

¹ Map filed as part of the original.

this amendment adds a requirement for two-way radio communications within Group II TCAs.

Notice No. 74-28 was published in the *FEDERAL REGISTER* on July 25, 1974 (39 FR 27147) stating that the Federal Aviation Administration was considering amending Part 91 to rescind the requirement for automatic pressure altitude reporting equipment in Group II TCAs. The Notice also proposed to make permanent the existing temporary exceptions for transponders for certain IFR flights within Group II TCAs, and to add a two-way radio communications requirement.

Interested persons were afforded an opportunity to participate in the proposed rule making. Due consideration was given to all relevant matter presented.

One hundred and fifty-one public comments were received in response to the notice with only twelve written comments objecting to the proposal. The principal argument in opposition to the proposal was that by eliminating the encoder requirement in Group II TCAs it would practically eliminate the requirements for altitude encoding equipment, thus creating an economic hardship on the manufacturers of these components. The amendment, however, affects only Group II TCAs and does not affect the requirement for altitude encoders in Group I TCAs or above 12,500 feet MSL. Further, this amendment does not prevent, or discourage, aircraft owners from installing this equipment to take advantage of the potential benefits.

Although the FAA takes note of this objection on economic grounds by certain manufacturers, the primary determination for adoption of this rule must be based upon considerations of safety and efficiency for operation within the TCAs. It has accordingly been determined that it would be an unnecessary burden, not justified in terms of increased safety, to require automatic pressure altitude reporting equipment in Group II TCAs at this time.

The other stated objection to the proposal was that rescinding the altitude encoding requirements would derogate safety and impair ATC efficiency in busy terminal areas. It must be pointed out that the requirement for altitude encoders has not been in effect as yet in Group II TCAs and is not scheduled to take effect until July 1, 1975. Therefore, this amendment does not change any presently existing requirements for altitude encoding equipment. Furthermore, the FAA has determined that, for the foreseeable future, encoding equipment is not necessary for safety in Group II TCAs since two-way radio communications will provide adequate altitude reporting in the less dense air traffic environments of these TCAs. In summary, the FAA believes that two-way radio communications, together with the continuing requirement for a 4096 code

transponder, will provide an adequate level of safety in Group II TCAs.

Further review of the safety aspects of operation within Group II TCAs has led to the conclusion that one of the proposed exceptions in the proposal should not be adopted. The notice proposed that transponders not be required for IFR flights operating to or from secondary airports within the TCA, or to IFR flights operating to or from an airport outside of, but in close proximity to the TCA, when the transition, approach or departure procedures would require flight within the TCA. The FAA has concluded that the minor penetration of the TCAs through the use of IFR transition, approach or departure procedures for airports outside of the TCAs would not substantially interfere with operations at the primary airport. This exception is preserved. However, the FAA believes that operations at secondary airports within the TCA should not be distinguished from operations at the primary airport and that it is necessary that aircraft operating at these airports be transponder equipped. This exception will, therefore, terminate on July 1, 1975.

(Secs. 307(a), 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective May 14, 1975, as hereinafter set forth.

1. Section 91.24(b)(2) is amended to read as follows:

§ 91.24 ATC transponder equipment.

(b) *Controlled airspace: all aircraft.* * * *

(2) After July 1, 1975, in Group II Terminal Control Areas governed by § 91.90(b), except as provided therein;

2. Section 91.90(b)(1)(i) is amended to read as follows:

§ 91.90 Terminal Control Areas.

(b) *Group II Terminal Control Areas.*

(1) *Operating rules.* * * *

(i) No person may operate an aircraft within a Group II Terminal Control Area unless he has received an appropriate authorization from ATC prior to operation of that aircraft in that area, and unless two-way radio communications are maintained, within that area, between that aircraft and the ATC facility.

3. Section 91.90(b)(2)(iii) is amended by deleting the words "notwithstanding the exceptions in this section" at the end thereof, and by inserting in place thereof the words "except that automatic pressure altitude reporting equipment is not required for any operation within the

terminal control area, and a transponder is not required for IFR flights operating to or from an airport outside of but in close proximity to the terminal control area, when the commonly used transition, approach, or departure procedures to such airport require flight within the terminal control area."

Issued in Washington, D.C., on April 7, 1975.

JAMES E. DOW,
Acting Administrator.

[FR Doc. 75-9564 Filed 4-11-75; 8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-902; Amdt. 17]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment To Delete Schedules B-9, B-42 and P-41 From CAB Form 41

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 8, 1975.

As part of our policy of continuous review of recurrent reports and specific data required of air carriers, the Board has determined that the submission by all route air carriers, on a regular and continuing basis, of data currently required to be reported on Schedule B-9, "Inventory of Flight Equipment Spare Parts and Assemblies," Schedule B-42, "Accounts 1410 Short-Term Prepayments, 1550 Special Funds-Other, 1820 Long-Term Prepayments, 1880 Other Intangibles, 1890 Other Deferred Charges, 2390 Other Deferred Credits," and Schedule P-41, "Taxes" are no longer necessary to meet our regulatory needs and should therefore be eliminated from the CAB Form 41.

Since this amendment reduces present reporting requirements and thereby relieves a burden, the Board finds that public procedure hereon is not required and the rule may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 241 of its economic regulations (14 CFR Part 241), effective April 8, 1975, as follows:

1. Amend Section 22—General Reporting Instructions—as follows:

A. By deleting from the "List of Schedules in CAB Form 41 Report" in paragraph (a), the references to schedules B-9, B-42 and P-41, the revised list to read as set forth below.

B. By deleting from the list of "Due dates of schedules in CAB Form 41 report" in paragraph (a) the references alongside Mar. 30 to B-9, B-42, and P-41, the revised list to read as set forth below.

Section 22—General Reporting Instructions

(a) * * *

List of Schedules in CAB Form 41 Report

Schedule No.	Schedule title	Filing
A	Certification	Quarterly.
A-1	Status of accounting plans required to be filed	Annually.
A-2	Controlling person's certification	Do.
B-1	Balance sheet	Monthly.
B-2	Notes to balance sheet	Quarterly.
B-3	Paid-in capital; self-insurance reserves and appropriations of retained earnings; deferred income taxes	Do.
B-4	Reserve for uncollectible accounts; accounts with subsidiaries, other associated companies and nontransport divisions	Do.
B-5	Property and equipment	Do.
B-7	Airframes and aircraft engines acquired	Do.
B-7(a)	Reinvestment of flight equipment capital gains	(1).
B-7(b)	Flight equipment acquired	Quarterly.
B-8	Property and equipment retired	Do.
B-8(a)	Flight equipment capital gains invested or deposited for reinvestment in flight equipment	(1).
B-10	Developmental and preoperating costs	Quarterly.
B-12	Statement of source and application of funds	Do.
B-13	Summary of projected financial commitments and related deposits	Do.
B-14	Summary of property obtained under long-term leases	Do.
B-41	Investments held by, or for the account of, respondent	Annually.
B-43	Inventory of airframes and aircraft engines	Do.
B-44	Summary of resources exchanged with affiliated group members and other associated companies	Do.
B-46	Long-term and short-term nontrade debt	Do.
P-1.1	Income statement—group I air carriers	Quarterly.
P-1.2	Income statement—group II and group III air carriers	Do.
P-1(a)	Interim income statement	Monthly.
P-2	Notes to income statement	Quarterly.
P-2(a)	Revenue market report	Do.
P-3	Transport revenues; depreciation and amortization; nonoperating income and expense (net)	Do.
P-3(a)	Income taxes	Do.
P-4	Transport-related revenues and expenses; explanation of special items; explanation of deferred Federal income tax adjustments, dividends declared and retained earnings adjustments	Do.
P-5.1	Aircraft operating expenses—group I air carriers	Do.
P-5.2	Aircraft operating expenses—group II and group III air carriers	Do.
P-5(a)	Components of flight equipment depreciation	Do.
P-6	Maintenance, passenger service, and general services and administration expense functions—all air carrier groups	Do.
P-7	Aircraft and traffic servicing, promotion and sales, and general and administrative expense functions—group II and group III air carriers	Do.
P-8	Aircraft and traffic servicing, and promotion and sales expense subfunctions—group III air carriers	Do.
P-9.1	Distribution of ground servicing expenses by geographic location—group I air carriers	Do.
P-9.2	Distribution of ground servicing expenses by geographic location—group II and group III air carriers	Do.
P-10	Payroll	Do.
P-11(a)	Charges by foreign governments and foreign entities for en route facilities and services	Do.
P-11(b)	Charges by foreign governments for airport facilities and services	Do.
P-12	Fuel inventories and consumption	Monthly.
P-12(a)	Fuel consumption by type of service and specific operational markets	Do.
T-1	Traffic and capacity statistics by class of service	Do.
T-2	Traffic, capacity, aircraft operations, and miscellaneous statistics by type of aircraft	Quarterly.
T-3	Airport activity statistics	Do.
T-6	Summary of civil aircraft charters	Do.
T-7	Statistical market report	Monthly.
T-41	Charter and special services revenue aircraft-miles flown; calculation of limitation of charter trips	(1).
G-41	Persons holding more than 5 per centum of respondent's capital stock or capital	Annually.
G-42	Security interests of all officers and directors and compensation paid to principal officers and directors	Do.
G-43	Compensation and expenses of persons and firms (other than directors, officers, and employees) earning \$20,000 or more during the calendar year	Do.
G-44	Corporate and securities data	Do.

¹ In accordance with the provisions of §§ 235.4 and 235.5 of Part 235 of this subchapter.

² For the first 9 months and for the 12 months of each calendar year.

Due dates of schedules in CAB Form 41 report

Due date ¹ :	Schedule No.
January 20	P-12, P-12(a).
January 30	B-1, P-1(a), T-1, T-2, T-3, T-7, T-41.
February 10 ²	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, P-11(a), P-11(b), T-6.
February 20	P-12, P-12(a).
March 1	B-1, P-1(a), T-1, T-7.
March 20	P-12, P-12(a).
March 30	A-2, B-1, B-41, B-43, B-44, B-46, P-1(a), G-41, G-42, G-43, G-44, T-1, T-7.
April 20	P-12, P-12(a).
April 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
May 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, P-11(a), P-11(b), T-6.

¹ Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

² B and P reporting dates are extended to March 30, if preliminary schedules are filed at the Board by February 10.

Due date:

May 20	P-12, P-12(a).
May 30	B-1, P-1(a), T-1, T-7.
June 20	P-12, P-12(a).
June 30	B-1, P-1(a), T-1, T-7.
July 20	P-12, P-12(a).
July 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
August 10	A, A-1, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, P-11(a), P-11(b), T-6.
August 20	P-12, P-12(a).
August 30	B-1, P-1(a), T-1, T-7.
September 20	P-12, P-12(a).
September 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
October 20	P-12, P-12(a).
October 30	B-1, P-1(a), T-1, T-7, T-41.
November 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, P-11(a), P-11(b), T-6.
November 20	P-12, P-12(a).
November 30	B-1, P-1(a), T-1, T-7.
December 20	P-12, P-12(a).
December 30	B-1, P-1(a), T-1, T-7.

Section 23—[Amended]

2. Amend Section 23—Certification and Balance Sheet Elements—as follows:

A. By deleting the caption "Schedule B-9—Inventory of Flight Equipment Spare Parts and Assemblies" which follows paragraph (h) of schedule B-8(a), as well as the entire text of paragraphs (a) through (i), inclusive, set forth under said caption.

B. By deleting the caption "Schedule B-42—Accounts 1410 Short-Term Prepayments, 1550 Special Funds-Other, 1820 Long-Term Prepayments, 1880 Other Intangibles, 1890 Other Deferred Charges, 2390 Other Deferred Credits" which follows paragraph (h) of schedule B-41, as well as the entire text of paragraphs (a) and (b) set forth under said caption.

Section 24—[Amended]

3. Amend Section 24—Profit and Loss Elements—by deleting the caption "Schedule P-41—Taxes" which follows paragraph (g) of schedule P-12(a), as well as the entire text of paragraphs (a) through (d), inclusive, set forth under said caption.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board.

Effective: April 8, 1975.

Adopted: April 8, 1975.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 75-9511 Filed 4-11-75; 8:45 am]

Schedule No.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2608]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

American Credit Bureau, Inc. et al.

Correction

In FR Doc. 75-7901 appearing in the issue of Thursday, March 27, 1975, the footnote referred to in column one, line two should read:

² New.

[Docket C-2626]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Fuqua Industries, Inc., et al.

Correction

In FR Doc. 75-8438, appearing at page 14741, in the issue for Wednesday, April 2, 1975, make the following corrections:

1. On page 14744, in the fifth line of paragraph (c) (1), insert the words "of business" between the words "place(s)" and "of".

2. On page 14745, in the third line of paragraph (g) change the word "of" to "or".

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

Children's Sleepwear, Sizes 0-6X; Labeling, Display, and Recordkeeping Requirements

In this document, the Consumer Product Safety Commission amends 16 CFR 302.19, a regulation which prescribes re-

quirements for advertising and labeling of children's sleepwear items which are subject to the Standard for the Flammability of Children's Sleepwear (DOC FP 3-71; as amended) by adding requirements for labeling of items subject to the Standard to indicate the production units in which they were manufactured; requirements for display of items subject to the Standard which are offered for sale to consumers in retail establishments; requirements for maintenance of records relating to the manufacture and sale of items subject to the standard; and requirements for testing for guaranty purposes under the standard.

The standard is applicable to children's sleepwear garments in sizes 0 through 6X, and to any fabric or related material intended or promoted for use in children's sleepwear in those sizes. The Standard, the regulation appearing at 16 CFR 302.19, and the amendments to that regulation appearing below have been issued under provisions of the Flammable Fabrics Act (15 U.S.C. 1191-1204), which provides for civil and criminal penalties for the violation of any standard or regulation issued under that act.

The principal provisions of the amendments to 16 CFR 302.19 set forth below are:

1. A requirement that each garment and each piece of fabric subject to the Standard be labeled to identify the production unit in which the item was manufactured. The production unit identification must appear on a permanent label attached to the garment or must be stamped permanently on the fabric of the garment. The production unit identification of any fabric subject to the Standard must appear on every label relating to that fabric which is required by the Textile Fiber Products Identification Act or by the Wool Products Labeling Act of 1939, or on any invoice used in lieu of labeling under those acts.

2. Requirements that retail dealers who offer noncomplying items of children's sleepwear in sizes 0 through 6X for sale to consumers display those noncomplying items so that they are not intermingled with complying items; separate displays of noncomplying items from displays of complying items by a distance of at least 36 inches; and identify displays of noncomplying items and complying items by signs with letters at least one inch high.

3. Requirements for the maintenance of records by manufacturers, importers and other persons who initially introduce items subject to the Standard into interstate commerce to establish a line of continuity through the process of manufacture of each production unit of items to the sale and delivery of finished items, and from the specific finished items back to the manufacturing records. The records required for every production unit

must relate that unit to a production unit identification number, letter, or date which is required to appear on each item subject to the Standard.

Background. The Standard for the Flammability of Children's Sleepwear (DOC FF 3-71; as amended) was issued on July 29, 1971 (36 FR 14062) by the Secretary of Commerce exercising authority then vested in the Secretary by the Flammable Fabrics Act, and was amended by the Secretary on July 21, 1972 (37 FR 14624) to incorporate requirements for a production sampling plan. The Standard, as amended, became effective on July 29, 1972, with a provision that noncomplying items of children's sleepwear in sizes 0 through 6X could be manufactured until July 29, 1973, if those items were permanently and conspicuously labeled to indicate that they do not comply with the Standard.

In the FEDERAL REGISTER of August 9, 1972 (37 FR 16003), the Federal Trade Commission proposed a regulation to prescribe labeling, advertising, and recordkeeping requirements for items subject to the Standard by the authority then exercised by the Federal Trade Commission under the Flammable Fabrics Act.

On May 14, 1973, the functions of the Secretary of Commerce and the Federal Trade Commission under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (86 Stat. 1231; 15 U.S.C. 2079(b)).

In the FEDERAL REGISTER of February 7, 1974 (39 FR 4852), the Consumer Product Safety Commission issued 16 CFR 302.19, a regulation to prescribe requirements for labeling and advertising of items subject to the Standard, based on the proposal published by the Federal Trade Commission.

CONFIRMATION NOTE: The regulations being amended herein (Part 302), although appearing in the CFR under Title 16, Chapter I—Federal Trade Commission, are now the responsibility of the Consumer Product Safety Commission due to the transfer of statutory authority explained above. Until the CPSC revises and transfers these regulations to Title 16, Chapter II—Consumer Product Safety Commission, it shall amend them in Chapter I.

In the same issue of the FEDERAL REGISTER (39 FR 4855), the Commission proposed amendments to 16 CFR 302.19 which would add requirements for labeling of items to indicate the production units in which they were manufactured; display of items subject to the standard in retail establishments; and maintenance of records by persons who manufacture or sell items subject to the Standard; and requirements for testing for guarantee purposes under the Standard. Interested parties were afforded a period of thirty days to comment on the proposed amendments.

Response to proposal and CPSC decisions thereon. In response to the proposed amendments, comments were received from eight manufacturers of items

subject to the Standard, three associations of retailers, one association of importers, and two consumer organizations. The principal issues raised by these comments and the Commission's decisions thereon are as follows:

A. Labeling provisions. 1. The proposed amendments included a paragraph, 302.19(b)(8), requiring that every item of children's sleepwear subject to the Standard be labeled to identify the production unit in which the item was manufactured. Proposed § 302.19(b)(8)(i) contained requirements that each garment subject to the Standard contain a label with minimum dimensions of one-half inch by three-fourths inch, bearing the appropriate garment production unit identification number, letter, or date in black letters at least one-sixth of an inch high against a solid white background.¹ This paragraph also required that the label bearing the production unit identification be affixed to the garment in such a manner as to remain attached throughout the expected period of use of the garment, and be visible to prospective purchasers.

Two manufacturers and one association of manufacturers request modification of the language of proposed § 302.19(b)(8)(i) to allow the garment production unit identification to be stamped onto the fabric of the garment as an alternative to the requirement that the production unit identification appear on a label which is sewn into the garment. (One of these comments also requests that manufacturers be given the additional alternative of putting the production unit identification on a label which contains other information such as instructions for laundering or dry cleaning.) One comment states that some manufacturers currently stamp the production unit identification onto the fabric of garments. Other comments requesting the modification of the labeling requirement to allow the garment production unit identification to be stamped onto the garment state that the requested change would reduce the manufacturers' cost of compliance; would allow greater accuracy because the production unit identification could be applied at the time the fabric is cut; and would prevent removal of the production unit identification by consumers.

After consideration of these comments, the Commission has modified the provisions of section 302.19(b)(8)(i) to allow the garment production unit identification to be stamped permanently onto the garment as an alternative to the use of a permanent label sewn into the

garment. This change has been made because the Commission concludes that a garment production unit identification which is stamped permanently onto the garment will serve the same purpose as a garment production unit identification placed on a separate label. However, to insure that the garment production unit identification will be readily visible, the Commission has also included a provision in the amendment issued below to require that when the garment production unit identification is stamped onto the garment, the mark indicating the garment production unit identification must be at least one inch in every direction from any other information on the garment. For the same reason, language has also been added to require that when a label is used to indicate the garment production unit identification, that label must not touch any other label on the garment, except that a label containing the garment production unit identification may be sewn on top of any label which is not required by regulations issued by the Commission for Children's Sleepwear in sizes 0 through 6X (16 CFR 302.19) if the label containing the garment production unit identification completely covers the label beneath it.

The Commission has not modified the amendment issued below to allow the garment production unit identification to appear on labels which contain other information, such as laundering or dry cleaning information, because such a change would reduce the visibility of the garment production unit identification, and would make it more difficult to locate.

2. Proposed § 302.19(b)(8)(i) specified minimum dimensions for the label and required the garment production unit identification to appear in black letters at least one-sixth of an inch high against a solid white background. Comments from one manufacturer, one association of manufacturers, two retailers and two associations of retailers object to specific requirements for the size and color of the label and lettering for the garment production unit identification. These comments recommend that greater discretion should be allowed in the design of the label, and that proposed § 302.19(b)(8)(i) should be changed to require only that the production unit identification appear permanently and legibly on the garment.

While the Commission understands the desire of manufacturers for relaxation of restrictions on the design of the label, the Commission has concluded that the term "legible" is not sufficiently specific for the purposes of this labeling requirement, and that minimum dimensions for the label and the lettering must be specified to provide objective and enforceable criteria for achieving the desired degree of prominence for the garment production unit identification. However, the requirement for black lettering against a white background has been modified to require that the letters must be in a color which contrasts with the background of the label.

¹ Throughout the preamble of this document, dimensions are given in the English system of measurement, that is in inches. In the text of the final amendment published below, dimensions are stated in metric terminology, that is, in centimeters and millimeters, followed by the English-system equivalents enclosed in parentheses. For purposes of enforcement of the Standard the Commission will rely on dimensions as expressed in metric terminology.

As stated earlier, section 302.19(b)(8) (i) has been modified to allow the manufacturer to stamp the garment production unit identification onto the fabric of the garment as an alternative to the use of a label. When the production unit identification is stamped onto the garment, the marking must be permanent, in letters at least one-sixth of an inch high, in a color which contrasts with the background, and at least one inch from any other information on the garment.

3. Proposed § 302.19(b)(8)(i) also required that the label containing the garment production unit identification be "readily visible" to prospective purchasers. Comments from four manufacturers, one association of manufacturers, two retailers, and one association of retailers object to this requirement. Several of these comments state that the prospective purchaser does not consider the production unit identification when making a purchasing decision, and a requirement that the production unit identification be "readily visible" will add to production costs, which will ultimately be passed on to the consumer. Some of these comments state that the apparent purpose of the requirement is to facilitate recall of a particular production unit if that unit does not comply with the Standard, and that as long as the location of the production unit identification is "accessible," the manufacturer of a noncomplying production unit can inform all parties in the chain of distribution and the Commission of the location of the production unit identification if the necessity to recall a production unit should arise. One manufacturer comments that if the label is positioned on the garment so that it is readily visible to prospective purchasers when the garment is packaged, it would be located on the garment in such a position that the consumer would probably remove the label before putting the garment on a child.

The Commission's purpose in proposing that the garment production unit identification must be readily visible to the prospective purchaser was to facilitate identification of items from a given production unit by persons in the chain of distribution and by Commission personnel, not only in the event of a recall of a production unit, but also to obtain samples from any given production unit for testing in a compliance market sampling program. To conduct such a sampling program expeditiously, Commission investigators must be able to identify the garment production unit of a given item quickly, without opening the package or looking for a label which may be located inside the garment. For that reason, the language of § 302.19(b)(8) has not been changed to require that the label bearing the fabric or garment production unit identification be "accessible" rather than "readily visible", as requested in these comments. However, language has been added to provide that if the label or marking which states the garment production unit identification is not readily visible to the prospective purchaser, the package must be permanent-

ly, conspicuously, and legibly labeled with the garment production unit identification.

4. Comments from one manufacturer and one association of manufacturers object to the limitation of the size of a garment production unit to 500 dozen items. This limitation is imposed by section 1(k) of the Standard. The requirements of a Standard can be altered only by amending the Standard, and cannot be changed by the provisions of enforcement regulations issued to implement the standard. Therefore, the change requested in these comments has not been made. One of these comments also requested that the first production unit of a given style of garments subject to the Standard be exempted from the requirement for a label bearing the garment production unit identification. This comment states that garments in the first production unit would be identifiable by the absence of a label with a garment production unit identification. While such an exemption might result in a slight reduction in cost to the manufacturer, the Commission concludes that such an exemption would complicate enforcement of the labeling requirements, and would not be compatible with the purpose of the labeling requirements of § 302.19(b)(8)(i), which is to facilitate identification of the production unit in which any given children's sleepwear garment was manufactured.

5. Proposed § 302.19(b)(8) requires that a production unit identification appearing on the label required by that paragraph be "designated in such a way as to indicate that it is a production unit identification under the Standard". A comment from one manufacturer recommends a uniform prefix to designate a production unit identification. The Commission has added language to § 302.19(b)(8) to state that the letters "GPU" and "FPU" may be used to designate a garment production unit and a fabric production unit, respectively, at the option of the labeler.

6. Proposed § 302.19(b)(8)(ii) contained language requiring that the fabric production unit identification appear in black letters at least one-sixth of an inch high against a solid white background on each label relating to that fabric which is required by the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) or by the Wool Products Labeling Act of 1939 (15 U.S.C. 68-68j) or on any invoice used in lieu of such labeling. A comment from one association of retailers states that neither the Textile Fiber Products Identification Act nor the Wool Products Labeling Act requires that information to appear in black letters against a white background. This comment and comments from two retailers request modification of the language of this paragraph to require only that the fabric production unit identification appear "legibly" on any label required by the Textile Fiber Products Identification Act or the Wool Products Labeling Act of 1939. After consideration of these comments, the Commission concludes that the objection to the requirement for

black lettering on a white background is valid, and has removed that requirement. Section 302.19(b)(8)(ii) issued below requires that the lettering be in a color which contrasts with the background of the label. However, the requirement that the lettering be at least one-sixth of an inch high has been retained to provide objective and enforceable criteria for achieving the desired degree of prominence for the fabric production unit identification.

7. One association of garment manufacturers requests modification of proposed § 302.19(b)(8)(ii) to require that the fabric production unit identification appear on the invoice relating to the fabric in all cases, and to eliminate that language which would allow the fabric production unit identification to appear on each label required by the Textile Fiber Products Identification Act or the Wool Products Labeling Act, because such labels may become detached from the fabric. This comment states that if the fabric production unit identification is required to appear on the invoice, the garment manufacturer will be able to maintain the records required by § 302.19(e) of the proposed amendments. The Commission has not made the change requested in this comment because the requirements for labeling to indicate the fabric production unit identification are applicable to fabrics subject to the Standard which are offered for sale to consumers as well as to fabrics which are sold to garment manufacturers. If a garment manufacturer needs fabric production identification or invoices for record-keeping purposes, or if such concern believes that detachment may be a problem, the regulations would not preclude a garment manufacturer from requiring the fabric production unit identification to appear on all invoices as a condition of sale.

8. A comment from a manufacturer of fabrics and garments asks whether the Commission intended to require a fabric manufacturer whose entire production of fabric is used by the same manufacturer to produce sleepwear garments in sizes 0 through 6X to comply with the labeling requirements of proposed § 302.19(b)(8)(ii). The provisions of § 302.19(b)(8)(ii), issued below, are applicable to such a manufacturer. The purpose of the labeling requirement of that paragraph is to facilitate identification not only of the source but also the fabric production units of the fabric used in any given production unit of garments which are subject to the Standard.

9. A comment from an association of retailers asks whether provisions of proposed section 302.19(b)(8) require that a garment be labeled to identify the fabric production units used in the manufacture of that garment. A comment from a retailer asks if the Commission intended to require garment manufacturers to identify the fabric production units used in the manufacture of garments to retailers when it proposed § 302.19(b)(8). The Commission did not intend to impose either of these requirements when it proposed § 302.19(b)(8).

and does not intend to impose either requirement in the final regulation issued below.

10. A comment from a retailer asks whether the Commission intended to require a fabric manufacturer to furnish the fabric production unit identification to retailers as well as to garment manufacturers when it proposed § 302.19 (b) (8) (ii). The purpose of § 302.19 (b) (8) (ii), as proposed and as issued below is to require fabric manufacturers to identify the production unit of fabrics sold for use in children's sleepwear to the purchaser of the fabric, whether that purchaser is a garment manufacturer, a fabric wholesaler or a retailer.

B. *Display of items subject to the Standard.* 1. Proposed § 302.19(d) required in part that persons who sell items of children's sleepwear subject to the Standard, in retail stores or other establishments open to the general public, display items which comply with the Standard so that no other merchandise is intermingled with those items; display all complying items at a separate location at least 36 inches away from any noncomplying items; and identify displays of complying and noncomplying items with signs. One organization of consumers favors the provisions of proposed § 302.19(d). This comment states that although few, if any, noncomplying items of children's sleepwear in sizes 0 through 6X are offered for sale to consumers in retail stores, the provisions of proposed § 302.19(d) would prohibit the intermingling of complying items in sizes 0 through 6X with the items in other sizes which do not have flame-resistant characteristics. Comments from one retailer and an association of retailers urge the Commission to withdraw proposed section 302.19(d). The association of retailers states that the requirements of proposed § 302.19(d) are unnecessary because almost all items of children's sleepwear in sizes 0 through 6X which are offered for sale to consumers in retail stores comply with the Standard. The retailer states that proposed § 302.19(d) is unnecessary because provisions of § 302.19(b) require all noncomplying items of children's sleepwear manufactured since July 29, 1972, to be labeled to indicate that they do not meet the Standard. A comment from a second association of retailers requests modification of proposed § 302.19(d) by the addition of language which would make that paragraph applicable only to retailers who sell both complying and noncomplying items which are subject to the Standard. A third association of retailers objects to the requirement for signs to identify displays of complying items because no provision of the Standard requires that complying items must be identified as such.

After careful consideration of these comments, the Commission has concluded that the requirements of proposed § 302.19(d) should be applicable only to those retailers who sell noncomplying items of children's sleepwear in sizes 0 through 6X. Language to that effect has been included in § 302.19(d) issued below. Retailers who handle noncomplying items

are required to identify displays of noncomplying items by signs and if they also offer items which comply with the Standard for sale to consumers, they are required to keep all noncomplying items physically separated from complying items and to identify displays of complying items with signs. Retailers who handle only complying items subject to the Standard are not subject to the requirements of § 302.19(d) issued below.

2. Proposed § 302.19(d) (1) (i) required that all complying items "for which the seller has documentary evidence of compliance" be displayed so that no other merchandise is intermingled with those items. An association of retailers requests the addition of language to that paragraph to provide that a continuing guaranty from a manufacturer that its products meet the Standard shall constitute documentary evidence of compliance. Any guaranty issued under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197), whether it is a separate guaranty applicable to specific items, a continuing guaranty from a seller to an individual buyer, or a continuing guaranty on file with the Commission, is a written statement to the effect that reasonable and representative tests of a given item subject to a flammability standard establish that the item complies with the applicable standard. The legal significance of such a guaranty is that it prohibits criminal prosecution under the act; however, it is not a bar to any administrative or civil proceeding authorized by the act. The Commission concludes that such a guaranty could be "documentary evidence" for purposes of § 302.19(d) issued below, but that addition of language to that effect to § 302.19(d) is not necessary. Accordingly, the change requested in this comment has not been made.

3. Proposed § 302.19(d) (1) (ii) contained language to require that complying goods offered for sale by retailers be identified with a sign which states: "Fire Retardant. Complies with Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)." At the present time, the terms "fire retardant," "fire resistant," "flame retardant," and "flame resistant" are all used in the textile and garment industries to describe material which does not readily ignite or propagate a flame. The Commission has learned that the Committee on Textiles of the American Society for Testing and Materials (ASTM) has been considering a set of uniform flammability definitions for textiles which specifies use of the term "flame resistant" to describe material which does not readily ignite or propagate a flame. The term "flame retardant" would describe a substance that is applied to fabric to make it "flame resistant." The Commission has learned that the proposed definitions have received a majority affirmative vote of that Committee, and are expected to be adopted.

Additionally, an amendment to the Standard for the Flammability of Children's Sleepwear in sizes 7 through 14 (FF 5-74), (39 FR 15210, May 1, 1974, as amended March 21, 1975 (40 FR 12811

and corrected March 27, 1975 (40 FR 13547)), require items which are subject to and comply with that Standard to be affirmatively labeled with a statement which describes them as "flame resistant."

Although none of the comments object to the use of the term "fire retardant" to describe items which comply with FF 3-71, the Commission desires that the text of the sign used to identify complying items be consistent with the affirmative labeling amendment to FF 5-74. This will help to eliminate confusion among consumers by adopting the generally accepted terminology regarding the flammability of textiles.

Although the Commission has not conducted surveys regarding consumer understanding of the meanings of the terms "flame resistant" and "flame retardant," the Commission believes that the public can be informed of the purpose of flammability standards for children's sleepwear. The use of consistent flammability labeling should further this effort. Accordingly, the Commission has changed § 302.19(d) (1) so that the required text for the sign shall be "Flame Resistant. Complies with Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

4. Proposed § 302.19(d) (2) contained language to require that displays of noncomplying items be identified by signs which contain the following text in black letters at least one inch high against a white background: "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)." An organization of consumers urges that the text of the sign should state: "FLAMMABLE SLEEPWEAR. This sleepwear does not meet government standards and is hazardous to children." The Committee observes that the text for the sign proposed by this comment could be misleading because it might suggest that the items which it identifies fail to meet standards other than the Standard for the Flammability of Children's Sleepwear (DOC FF 3-71; as amended), and that such items present a hazard which is not related to their flammability characteristics. For these reasons, the text for the sign to identify displays of noncomplying items subject to the Standard has not been changed.

5. Two retailers and one association of retailers object to the provisions of proposed § 302.19(d) which require that the signs used to identify displays of complying and noncomplying items have black letters at least one inch high against a white background. These comments suggest that the language of that paragraph should be changed to a more general requirement that the signs "clearly and conspicuously" identify displays of complying and noncomplying merchandise. These commenters also object to proposed § 302.19(d) (3) which requires that displays of complying items in sizes 0 through 6X be at least 36 inches from any other items of children's sleepwear which do not comply with the Standard.

They state that these requirements are an unnecessary interference with retailers' business judgment. A comment from an organization of consumers urges that proposed § 302.19(d) (3) be changed to require that noncomplying items cannot be displayed on any shelf or table used to display complying items.

After consideration of these comments, the Commission concludes that for enforcement purposes, objective criteria are necessary for the size and color of the lettering and for the color of the background of signs to identify displays of complying and noncomplying items, as well as for a minimum distance to achieve physical separation of displays of complying and noncomplying items. While the requirements of proposed § 302.19(d) may restrict retailers' business judgment, the Commission concludes that these restrictions are not unreasonable. At the same time, the Commission concludes that the requirement that noncomplying items not be placed on any shelf or table used to display complying items would impose an unreasonable burden on retailers. For these reasons, none of the changes suggested in the comments under consideration has been made to § 302.19(d) issued below.

6. A comment from a retailer asks if the requirements of § 302.19(d) are applicable to fabric sold at retail, and if so, would that paragraph require physical separation of fabric which meets the Standard from fabric which is not intended for use in children's sleepwear. Provisions of § 302.19(d), issued below, are applicable to fabric intended or promoted for use in children's sleepwear in sizes 0 through 6X, when that fabric is offered for sale to consumers in retail stores. If a retailer handles fabric which is subject to the Standard but does not comply with the Standard, that retailer must identify that fabric with the required signs, and keep that fabric at least 36 inches from any fabric which is subject to the Standard and complies with the Standard. Section 302.19(d) does not require complying fabric which is subject to the Standard to be physically separated from fabrics which are not intended or promoted for use in children's sleepwear in sizes 0 to 6X. The provisions of § 302.19(d) are not applicable to a retailer who handles fabrics which are subject to and comply with the Standard if he does not handle any noncomplying fabrics which are subject to the Standard.

C. Recordkeeping requirements. 1. Proposed § 302.19(e) set forth recordkeeping requirements applicable to manufacturers, importers, converters, and other persons who introduce items subject to the Standard into interstate commerce. Proposed § 302.19(f) contained recordkeeping requirements applicable to wholesalers, distributors, retailers, and other persons who market or handle items subject to the Standard but who are not subject to the recordkeeping requirements of § 302.19(e). One organization of consumers states that it favors promulgation of these recordkeeping requirements as they were proposed by the

Commission, and observes that without the provisions of proposed § 302.19 (e) and (f), the Commission would encounter serious difficulty if it attempted to trace the distribution of any items which fail to meet the Standard. None of the comments received objects in principle to requirements for the maintenance of records by persons who manufacture, market, or handle items subject to the Standard, although comments from one association of manufacturers, one retailer, and one association of retailers state that the requirements of proposed § 302.19 (e) and (f) will add to manufacturers' and retailers' costs and will ultimately result in higher prices to consumers. The Commission is aware that the recordkeeping provisions in the amendments issued below may require some firms to keep records applicable to children's sleepwear items in sizes 0 through 6X beyond those which they presently maintain, and that some increase in the cost of production and handling of those items may result. However, the Commission has determined that protection of young children who wear items subject to the Standard requires the maintenance of records to trace each production unit of items subject to the Standard from the manufacturing process through channels of distribution up to and including sale to retail dealers. Accordingly, the substance of § 302.19 (e) and (f) is unchanged.

2. Provisions of proposed § 302.19(e) required that persons who initially introduce items subject to the Standard into interstate commerce maintain records to establish a line of continuity through the process of manufacture of each production unit of items subject to the Standard to the sale and delivery of the finished items, and from the specific finished items to the manufacturing records. The records required to be maintained by proposed § 302.19(e) include data sufficient to demonstrate compliance with all sampling plans used in accordance with the Standard; the production unit identification assigned to each production unit of items manufactured; results and details of all tests performed and details of all sampling procedures used; fiber content and manufacturing specifications of the items in each production unit; composition and details of application of any fire-retardant treatments used; and the date and quantity of each sale or delivery of items subject to the Standard and the name and address of each purchaser or recipient relating the sale to the production unit or other unit identification. A comment from an association of importers states that the requirements of proposed § 302.19(e) discriminate against importers because they require testing to be performed by laboratories within the United States. This comment urges modification of the requirements of that paragraph to allow testing to be performed by laboratories in the countries where imported goods are manufactured. No provision of the Standard or of proposed § 302.19(e) requires that testing in accordance with the Standard must be performed in the

United States. Provisions of proposed § 302.19(e) require that the importer must maintain records relating to the manufacture and sale of items subject to the Standard. The information, data, and physical specimens required by that paragraph can be supplied by the foreign manufacturer, although responsibility for the adequacy and accuracy of the records rests on the importer. For this reason, the change requested in this comment has not been made.

3. An association of retailers requests addition of language to proposed § 302.19 (e) to state that a retail company which distributes merchandise to retail establishments is not subject to the provisions of that paragraph. If a retailer purchases items subject to the Standard from a wholesaler, distributor, or domestic manufacturer, that retailer is not subject to the provisions of § 302.19(e) because he is not a person who initially introduces items subject to the Standard into interstate commerce. If the retailer of items subject to the Standard is also the importer of those items, provisions of § 302.19(e) are applicable. As explained above, the importer is required to maintain the records specified in § 302.19(e) and bears the responsibility for their adequacy and accuracy; however, the importer may obtain the information, data, and physical specimens required for those records from the foreign manufacturer of the items.

4. A manufacturer of fabric and sleepwear garments objects to language in proposed § 302.19(e)(1) which requires that the records maintained by a manufacturer "must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear . . . to the sale and delivery of the finished items and from the specific finished item to the manufacturing records." This commenter states that its manufacturing operations take place in several plants which are located in three states, and that the requirement to "establish a line of continuity" of the process by which any given production unit was manufactured could be done only at a high cost and considerable loss of productivity. This comment requests deletion of the language of proposed § 302.19(e)(1) quoted above.

This commenter appears to have misinterpreted the requirements of proposed § 302.19(e)(1) by placing undue emphasis on the words "line of continuity through the process of manufacture." The Commission does not intend to require records which would trace each production unit through the sequence of manufacturing operations, but rather to require records consisting of certain information, data, and physical specimens relating to the manufacture and sale of each production unit of items in such a manner that the records for any given production unit are applicable to each item in that production unit, and each item in that production unit can be related to the records for

the production unit in which it was manufactured. For this reason, the change requested in this comment has not been made to § 302.19(e) (1) issued below.

5. Proposed § 302.19(e) (1) (vii) required maintenance of records of "data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under 4(d) (4) of the Standard * * *." One manufacturer and one retailer recommend deletion of the words "or garments" from the language quoted above because section 4(b) (1) of the Standard provides that if the fabric has been shown to meet the laundering requirement of section 4(d) (4) of the Standard, garments produced from that fabric are not required to be laundered.

Most fabric manufacturers do test fabrics which are subject to the Standard as required by section 4(b) of the Standard after laundering in accordance with section 4(d) (4) of the Standard and certify that the fabric complies with the Standard. However, some children's sleepwear garments in sizes 0 through 6X may be manufactured from fabrics not intended or promoted for use in children's sleepwear and therefore not tested under the Standard, or from fabrics which are subject to the Standard but which have not been certified by the fabric manufacturer to have met the laundering requirements of section 4(d) (4) of the Standard. In either case, the garment manufacturer would be required to launder samples of the garments to be tested in accordance with provisions of section 4(d) (4) of the Standard. For that reason, the change requested in these comments has not been made.

6. Proposed § 302.19(e) (1) (ix) required maintenance of records of the date and quantity of each sale or delivery of items subject to the Standard, as well as, the name and address of the purchaser or recipient relating the sale to the production unit or other unit identification. Comments from three garment manufacturers object to the requirement that sales records must show the production unit identification of the items involved in each sale. These comments indicate that each individual order consists of garments from several different production units, and that listing the production units involved on the invoice of each sale would be time-consuming and costly. Two of these comments recommend that manufacturers should be given the option of recalling all items from all production units of a given style if the necessity for recall of a specific production unit should arise, as an alternative to maintaining the records required by proposed § 302.19(e) (1) (ix). The principal purpose of the requirements of the proposed amendments to § 302.19 is to facilitate the identification and recall of items from any given production unit which does not comply with the Standard. The requirement for the identification of all purchasers of the items from each production unit is essential to accomplish this result. Previous experience with enforcement of the Flammable Fabrics Act demonstrates

that some manufacturers have experienced considerable difficulty in attempts to recall all of the items of a given style from channels of distribution after items from that style were found not to comply with the applicable flammability standard. For these reasons, the requirement for records to show the production units involved in each sale of items subject to the Standard has been retained in § 302.19(e) (1) (ix), issued below, and the changes requested in these comments have not been made.

7. A comment from an association of manufacturers requests clarification of the term "physical records," as it is used throughout proposed § 302.19(e). That paragraph requires persons subject to its provisions to maintain "written and physical records" relating to the production and sale of items subject to the Standard. The term "physical records" as used in § 302.19(e) refers to the finished fabric samples which are required by § 302.19(e) (2), and to the untested prototype specimens, complete sample garments, and the remains of all specimens after testing which are required by § 302.19(e) (3).

8. Proposed § 302.19(e) (3) (ii) required manufacturers to retain physical samples of the various components used in prototype testing in sufficient quantities to repeat all tests required by section 4(b) of the Standard, and upon written request, to furnish to the Commission "specimens identical to those specimens that were actually tested." A comment from one garment manufacturer requests modification of this paragraph by the addition of language to state that the specimens to be furnished to the Commission shall be "identical within normal raw material and manufacturing variations" to those specimens actually tested. This comment states that without the requested modification, the word "identical" is too restrictive and fails to allow for small differences in materials and construction of prototype specimens. When the Commission proposed § 302.19(e) (3) (ii), it intended to require manufacturers to assemble and retain a sufficient number of additional specimens prior to prototype testing to allow repetition of the prototype testing required by section 4(b) (3) of the Standard. By the use of the term "identical," the Commission intends that the specimens to be retained must be constructed from the same materials and in the same manner as the specimens actually tested. The Commission concludes that the additional language requested in this comment would not clarify the intent of the Commission, and could complicate any enforcement action which might arise from § 302.19(e) (3) (ii). For this reason, the Commission has not made the change requested in this comment.

9. One manufacturer objects to the requirement in proposed § 302.19(e) (3) (ii) for retention of a sufficient number of prototype specimens to repeat the prototype testing required by the Standard, because proposed § 302.19(e) (3) (iv) requires retention of the remains of all prototype specimens tested in accordance

with the Standard. This comment states that requiring manufacturers to retain both untested prototype specimens and the remains of prototype specimens after testing is burdensome to manufacturers. An association of garment manufacturers requests modification of proposed section 302.19(e) (3) (iv) to allow use of photographs of the remains of prototype specimens after testing as an alternative to retaining the physical remains of the specimens. The Commission observes that the effect of section 4(b) (3) of the Standard, and proposed § 302.19(e) (ii) and (iv) is to require a manufacturer to retain 30 untested seam specimens at least 10 inches long, and 30 untested trim specimens, and the physical remains of no more than 30 seam specimens and 30 trim specimens. The Commission concludes that the requirement for retention of these specimens is necessary for purposes of enforcing the Standard and will not impose an unreasonable burden on garment manufacturers, and for that reason has not made either of the changes requested in these comments.

10. Proposed § 302.19(e) (4) (i) required garment manufacturers to maintain records to show the source and production unit identification of all fabrics subject to the Standard which are used in garment production unit. Comments from two garment manufacturers and one association of manufacturers request deletion of this requirement. The garment manufacturers state that several fabric production units may be used in a single garment production unit. One manufacturer states that the requirement of proposed § 302.19(e) (4) (i) is unnecessary because all fabrics subject to the Standard must be tested prior to sale to the garment manufacturer. This comment assumes that no fabric production unit which fails to meet the Standard would ever leave a fabric manufacturer's plant. The other manufacturer recommends modification of this paragraph to allow garment manufacturers to identify the fabric used in each garment production unit by means other than the fabric production unit identification, such as the case number or the lot number. The Commission observes that a case or lot of fabrics could consist of items from more than one fabric production unit. The association of manufacturers states that some children's sleepwear garments subject to the Standard are manufactured from fabrics which are not intended or promoted for use in children's sleepwear, and are not subject to the Standard. These fabrics are not identifiable by production unit. Proposed § 302.19(e) (4) (i) required identification of the production units of "all fabrics subject to testing." If a fabric is not intended or promoted for use in children's sleepwear, it is not subject to testing under the Standard. Accordingly, the Commission has not made the changes requested in these comments.

11. Proposed § 302.19(e) (4) (iv) required the maintenance of records to show that samples tested were selected

from the production unit "at random." A comment from one manufacturer asks for a definition of the term "selected at random." As used in § 302.19(e)(4)(iv), the words "selected at random" refer to a selection procedure which assures that any article drawn from the production unit for testing has the same chance of being drawn as any other article in that production unit. This comment also asks how a manufacturer can establish that the items tested were selected at random. One method, although not the only means, to demonstrate that items were selected for testing at random is to use a random number table. Random numbers tables can be found in standard reference volumes on the subject of statistics. An alternative to the use of a random number table would be to number individual cards (such as playing cards) with the numbers one through 500. These cards would then be shuffled and one card would be dealt. The number on the card which is dealt is a random number between one and 500.

12. Proposed § 302.19(e)(4)(v) required persons introducing items which are subject to the Standard to retain written data that will enable the Commission to obtain garments for testing under any applicable compliance market sampling plan. Comments from one manufacturer and an association of manufacturers request modification of this paragraph by the addition of language to require retention of this information only as long as the garments are still in channels of distribution. Proposed § 302.19(e)(5) requires retention of such records for a period of three years. Although all of the items of a particular garment production unit may be sold by wholesalers and retailers before three years elapse, a manufacturer would probably not be able to ascertain the specific date on which the last item of a particular garment production unit leaves the chain of distribution. For that reason, the change requested in these comments has not been made.

13. Proposed § 302.19(f) set forth recordkeeping requirements for persons who market or handle items subject to the Standard but who do not initially introduce those items into interstate commerce. The Commission has not yet completed its consideration of whether retailers and others not initially introducing into commerce items subject to the Standard should be subject to the recordkeeping requirements proposed as § 302.19. Therefore, the Commission has not issued that section in final form and has directed its staff to provide further information on this matter. If the Commission decides to issue the requirement at a later time, adequate time will be allowed for those subject to the requirements to comply. However, it is not anticipated that the regulation will be proposed again before it is issued in final form.

14. The Commission observes that proposed § 302.19(f) contains language to the effect that persons who handle items subject to the Standard but who do not

initially introduce them into interstate commerce are exempt from any requirement to maintain records of sales to retail purchasers; however, no such exemption appears in proposed § 302.19(e)(1)(ix). The latter paragraph is applicable to manufacturers, importers, and other persons who initially introduce items subject to the standard into commerce.

The Commission has added language to § 302.19(e)(1)(ix) in the regulation issued below to exempt importers and other persons who initially introduce items into interstate commerce from any requirement to record names of ultimate consumers and dates of sales to ultimate consumers. The Commission believes this change is appropriate because it does not appear to be necessary to maintain the names and dates of sales to ultimate consumers.

D. Tests for guaranty purposes. Section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) provides that no person shall be subject to criminal prosecution for violation of the Act if he has received in good faith a guaranty from the person from whom he received an item subject to a flammability standard which states that reasonable and representative tests made in accordance with the applicable standard establish compliance with that standard. (Such a guaranty is not a bar to any administrative action or civil proceeding authorized by the Act.)

Proposed § 302.19(g) set forth requirements for tests upon which guaranties can be issued for items subject to the Standard. A comment from an association of importers requests the addition of language to allow guaranties to be issued on the basis of tests performed outside of the United States.

Provisions of 16 CFR 302.11 state that any guaranty furnished by a person who is not a resident of the United States shall not be a bar to prosecution under the criminal provisions of the act. However, no provision of the Standard, proposed § 302.19(g) or 16 CFR 302.11 requires the testing upon which the guaranty is based to be conducted within the United States. As long as the person who issues the guaranty resides in the United States and the records of the testing upon which the guaranty is based are maintained within the United States, a guaranty may be issued on the basis of tests conducted outside of the United States. For that reason, the change requested in this comment has not been made. Proposed § 302.19(g) has been issued as § 302.19(f) below.

E. Other changes. 1. The regulation appearing at 16 CFR 302.19 was issued on February 7, 1974, with the heading "Children's sleepwear, sizes 0-6X; labeling and advertising requirements under Standard DOC FF 3-71." Because the amendments issued below add requirements for recordkeeping, retail display, and guaranties, the heading of 16 CFR 302.19 has been changed to "Children's sleepwear, sizes 0-6X; labeling, advertising, recordkeeping, retail display, and guaranties under Standard DOC FF 3-71."

2. As issued on February 16, 1974, § 302.19(d) carried the heading "Compliance with this section," and contained provisions to prohibit any person subject to the Flammable Fabrics Act from manufacturing, importing, distributing, or otherwise marketing or handling any item subject to the Standard which is not in compliance with the provisions of 16 CFR 302.19. In the amendments issued below, § 302.19(d) carries the heading "Segregation of complying and noncomplying items by retailer," and establishes requirements for retail display of items subject to the Standard. The paragraph formerly designated § 302.19(d), Compliance with this section, has been redesignated § 302.19(g).

Conclusion and promulgation. Having considered the comments received and other pertinent information and material, the Consumer Product Safety Commission concludes that the proposed amendments to 16 CFR 302.19, with the changes discussed above, should be adopted as set forth below.

Accordingly, pursuant to provisions of the Flammable Fabrics Act (sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194) under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (Public Law 93-573, sec. 30(b), 86 Stat. 1213; 15 U.S.C. 2079(b)), the heading of 16 CFR 302.19 is revised and 16 CFR 302.19 is amended by adding a new section (8) to section (b), by redesignating section (d) as (g), and by adding sections (d), (e), and (f).

§ 302.19 is amended as set forth below:

§ 302.19 Children's sleepwear, sizes 0-6X; labeling, advertising, recordkeeping, retail display, and guaranties under Standard DOC FF 3-71.

(b) Labeling. . . .

(8) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign to each item a unit identification (number, letter, or date, or combination thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit identification under the Standard. The letters "GPU" and "FPU" may be used to designate a garment production unit identification and fabric production unit identification, respectively, at the option of the labeler. Where items required to be labeled or stamped in accordance with this section 302.19(b)(8) are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section 302.19(b)(8).

(i) Each garment subject to the Standard shall bear a label with minimum dimensions of 1.3 centimeters (0.5

inch) by 1.9 centimeters (0.75 inch) containing the appropriate garment production unit identification for that garment in letters at least 0.4 centimeters (one-sixth of an inch) in height and in a color which contrasts with the background of the label, or shall have such information clearly, conspicuously, and legibly stamped on the garment itself in letters at least 0.4 centimeters (one-sixth of an inch) in height, in a color which contrasts with the background, and at least 2.54 centimeters (1 inch) in every direction from any other information. When a label is used to indicate the garment production unit identification, that label may not be in contact with any other label used on the garment, except that a label containing the garment production unit identification may be sewn on top of any label which is not required by this section 302.19 if the label containing the garment production unit identification completely covers the label beneath it. The stamp or label containing the garment production unit identification must be of such construction, and affixed to the garment in such a manner as to remain on or attached to the garment and legible and visible throughout its intended period of use.

(ii) The fabric production unit identification shall appear in letters at least 0.4 centimeters (one-sixth of an inch) in height against a contrasting background on each label that relates to such fabric and is required by the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) and the regulations thereunder (16 CFR 303.1 through 303.45), or by the Wool Products Labeling Act of 1939 (15 U.S.C. 68-68j) and the regulations thereunder (16 CFR 300.1 through 300.35). When the information required by the Textile Fiber Product Identification Act or by the Wool Products Labeling Act of 1939 appears on an invoice used in lieu of labeling, the fabric production unit identification required by this section may be placed clearly, conspicuously, and legibly on the same invoice in lieu of labeling.

(d) *Segregation of complying and noncomplying items by retailer.* Every person who sells noncomplying items (as defined in section 1(c) of the Standard and section (3) of section 302.19 at retail stores or other establishments open to the general public where goods are offered for sale shall:

(1) Display the items which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and identify such complying items with at least one sign, with black letters at least 2.5 centimeters (one inch) in height against a solid white background, bearing the statement: Flame Resistant. Complies With Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(2) Display all other items of children's sleepwear, sizes 0 through 6X, at a separate location within the store and

identify these items with at least one sign, with black letters at least 2.5 centimeters (1 inch) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(3) Segregate those items of children's sleepwear, sizes 0 through 6X, which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that they shall not be located within 91 centimeters (36 inches) of any other items of children's sleepwear, sizes 0 through 6X, when displayed for sale to consumers.

(e) Records—manufacturers, importers, or other persons initially introducing items into commerce—(1) *General.* Every manufacturer, importer, or other person (such as a converter) initially introducing into commerce items subject to the Standard, irrespective of whether guarantees are issued under paragraph (g) of this section, shall maintain written and physical records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear, or fabrics or related materials intended or promoted for use in children's sleepwear, to the sale and delivery of the finished items and from the specific finished item to the manufacturing records. Such records shall show with respect to such items:

(i) Details, description, and identification of any and all sampling plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan(s) and must relate the sampling plan(s) to the actual items produced, marketed, or handled. This requirement is not limited by other provisions of section (e) of this section.

(ii) Garment production units or fabric production units of all garments or fabrics marketed or handled. The records must relate to an appropriate production unit identification on or affixed to the item itself in accordance with section (b) (8) of this section, and the production unit identification must relate to the garment production unit or fabric production unit.

(iii) Test results and details of all tests performed, both prototype and production, including char lengths and residual flame time of each specimen tested, average char length of the samples required to be tested, details of the sampling procedure employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedures and sampling plan specified by the Standard or authorized alternate sampling plan.

(iv) Disposition of all failing or rejected items. Such records must demonstrate that the items were retested or reworked and retested in accordance with the Standard prior to sale or distribution and that such retested or reworked and retested items comply with the Standard,

or otherwise show the disposition of such items.

(v) Fiber content and manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Data and test results relied on as a basis for inclusion of different colors or different print patterns of the same fabric as a single fabric or garment production unit under 4(b) (1) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under 4(d) (4) of the Standard and any guarantees issued or received relating to laundering as well as details of the laundering procedure utilized.

(viii) Identification, composition, and details of application of any flame retardant treatments employed. All prototype and production records shall relate to such information.

(ix) Date and quantity of each sale or delivery of items subject to the Standard (except the date of sale to an ultimate consumer) and the name and address of the purchaser or recipient (except an ultimate consumer), relating such sale to the production unit or other unit identification.

(2) *Fabrics.* In addition to the information specified in section (e) (1) of this section the written and physical records maintained with respect to each fabric production unit shall include (i) finished fabric samples sufficient to repeat the fabric sampling procedure required by 4(b) of the Standard for each production unit marketed or handled; and (ii) records to relate the samples to the actual fabric production unit. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the sampling and testing of any production unit in accordance with 4(b) of the Standard shall be furnished from these records within the time specified in that written request.

(3) *Garments—prototype testing.* In addition to the records specified in section (e) (1) of this section, the following written and physical records shall be maintained with respect to the garment prototype testing required by the Standard:

(i) Specification, fiber content, and details of construction on all seams, fabrics, threads, stitches, and trims used in each garment style or type upon which prototype testing was performed, relating the same to such garment style or type and to all production units to which such prototype testing is applicable.

(ii) Samples sufficient to repeat the prototype tests required by 4(b) of the Standard for all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such samples to the records required by paragraph (e) of section including the information required by paragraph (e) (3) (i) of this section. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the testing of any prototype specimens identical to those specimens that were actually tested

pursuant to the Standard shall be furnished from these records within the time specified in that written request.

(iii) A complete untested garment from each style or type of garment marketed or handled.

(iv) Remains of all physical specimens tested in accordance with the prototype testing required by 4(b) of the Standard, relating such samples to the records required by paragraph (e) of section including information required by paragraph (e) (3) (i) of this section.

(4) *Garments—production testing.* In addition to the records required by paragraph (e) (1) of this section, written and physical records shall be maintained and shall show with respect to each garment production unit:

(i) Source and fabric production unit identification of all fabrics subject to testing used in each garment production unit.

(ii) Identification and appropriate reference to all prototype records and prototype tests applicable to each production unit.

(iii) Any guaranty relied upon to demonstrate that the fabric utilized in such garments meets the laundering requirements of the Standard.

(iv) Data sufficient to show that tested samples were selected from the production unit at random from regular production.

(v) Written data that will enable the Commission to obtain and test garments under any applicable compliance market sampling plan.

(5) *Record retention requirements.* The records required by paragraph (e) of section shall be maintained for 3 years, except that records relating to prototype testing shall be maintained for as long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(f) *Tests for guaranty purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 3 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard.

(g) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

Effective Date. The regulation promulgated herein shall become effective on May 14, 1975.

(Sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194)

Dated: April 9, 1975.

SADY E. DUNN,
Secretary, Consumer Product
Safety Commission.

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 6—ENVIRONMENTAL IMPACT CONSIDERATIONS

Legal Effect of NEPA on Agency Action

This regulation establishes the legal interpretation of the Commissioner of Food and Drugs that a determination of an adverse environmental impact pursuant to the National Environmental Policy Act of 1969 (NEPA) permits the Commissioner to take or refrain from taking regulatory action only if the adverse environmental impact involved relates to a danger to the public health, or adulteration or misbranding of products subject to the agency's jurisdiction, or some other impact prohibited by the Federal Food, Drug, and Cosmetic Act or one of the other laws administered by the Commissioner. Although adverse environmental impacts relating to destruction of scenic beauty, depletion of energy resources, increase in litter and trash, and similar matters are not condoned by the Commissioner, he has no legal authority to prevent them.

The Commissioner issued final regulations in 21 CFR Part 6, published in the *Federal Register* of March 15, 1973 (38 FR 7001), establishing procedures for preparation of environmental impact statements by the Food and Drug Administration for major agency actions significantly affecting the quality of the human environment.

Under the Federal Food, Drug, and Cosmetic Act and the other laws administered by the Commissioner pursuant to the delegations of authority in § 2.120 (21 CFR 2.120), the Commissioner is required to approve petitions and applications and otherwise to take regulatory action on the basis of specific criteria established by statute. For example, a new drug must be approved if it is determined to be safe and effective, and a food additive or color additive must be approved if it is determined to be safe, pursuant to the criteria contained in the statute.

The National Environmental Policy Act requires the Food and Drug Administration to prepare environmental impact statements on all major agency actions significantly affecting the quality of the human environment. In some instances, the environmental impact of agency action will improve the quality of the human environment, or have no significant effect upon it. In other instances such action will have a significant adverse effect upon the quality of the human environment.

The Commissioner has concluded that NEPA requires only that the Food and Drug Administration issue an adverse environmental impact statement, but it does not contain independent substantive legal authority permitting or requiring the Commissioner to take or refrain from taking any particular action on the basis of a determination of an adverse environmental impact. The Supreme Court has ruled that Congress did not

intend NEPA to repeal by implication any other Federal statute. [*United States v. SCRAP*, 412 U.S. 669, 694 (1973).] No court has held that NEPA amends other Federal statutes to permit an agency to take action not authorized by its governing laws.

Accordingly, where an environmental impact statement prepared by the Food and Drug Administration determines that proposed agency action will have an adverse environmental impact, the Commissioner will first determine whether the adverse environmental impact involved is prohibited by the Federal Food, Drug, and Cosmetic Act or any of the other laws he administers. If the adverse environmental impact falls within a prohibition contained in those laws, the Commissioner may take or refrain from taking action on the basis of that adverse impact. If the adverse environmental impact does not fall within any such statutory prohibition, however, the Commissioner is legally precluded from taking or refraining from taking any action based upon that adverse impact, and instead is limited to the statutory grounds for such action established by the specific laws which he administers. For example, the Commissioner may refuse to approve or withdraw approval of a food additive or a new animal drug if it is unsafe, but he is legally precluded from taking such action if the product would only contribute to litter or deplete the nation's energy resources or detract from scenic beauty.

The Commissioner concludes that, because this amendment to § 6.1 is intended solely to notify the public of a legal interpretation of the agency's statutory authority which will be uniformly applied to all agency environmental impact statements and involves no issues of fact or policy, notice and public procedure and a delayed effective date are unnecessary. The Commissioner further advises that this amendment to the regulations constitutes final agency action on this matter. It is the Commissioner's opinion that, since the activities of the Food and Drug Administration directly affect every person in this country, any such person has standing to obtain judicial review of this regulation in accordance with the provisions of 5 U.S.C. 701 et seq.

Therefore, pursuant to the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)), the Federal Food, Drug, and Cosmetic Act (secs. 201 et seq., 52 Stat. 1040 et seq. (21 U.S.C. 321 et seq.)), the Fair Packaging and Labeling Act (secs. 2 et seq.; 80 Stat. 1296 et seq. (15 U.S.C. 1451 et seq.)), the Public Health Service Act (secs. 351, 352, 354-360F, 58 Stat. 702, 82 Stat. 1173 et seq. (42 U.S.C. 262, 263, 263b-263n)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 6 is amended in § 6.1 by adding a new paragraph (a) (3) to read as follows:

Section 6.1 is amended by adding paragraph (a) (3) as follows:

§ 6.1 Applicability.

(a) * * *

(3) A determination of adverse environmental impact has no legal or other regulatory effect and does not authorize the Commissioner to take or refrain from taking any action under the laws he administers. The Commissioner may take or refrain from taking action on the basis of a determination of an adverse environmental impact only to the extent that such action is independently authorized by the laws he administers. For example, an adverse environmental impact which directly or indirectly results in a danger to the public health may be the subject of action by the Commissioner, but an adverse environmental impact which results in increased litter and trash or depletion of energy resources or detracts from scenic beauty but which has no adverse health consequences or other effects related to adulteration or misbranding may not be the subject of action by the Commissioner.

Effective date. This order shall be effective on April 14, 1975.

(Sec. 102(2), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 201 et seq., Pub. L. 717, 52 Stat. 1040 et seq. (21 U.S.C. 321 et seq.); secs. 2 et seq., Pub. L. 89-755, 80 Stat. 1296 et seq. (15 U.S.C. 1451 et seq.); secs. 351, 352, 354-360F, Pub. L. 410, 58 Stat. 702, 82 Stat. 1173 et seq. (42 U.S.C. 262, 263, 263b-263n.))

Dated: April 2, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc. 75-9390 Filed 4-11-75; 8:45 am]

SUBCHAPTER J—RADIOLOGICAL HEALTH
PART 1030—PERFORMANCE STANDARDS
FOR MICROWAVE AND RADIO FRE-
QUENCY EMITTING PRODUCTS

Microwave Ovens

Correction

In FR Doc. 75-8334, appearing at page 14750 in the issue for Wednesday, April 2, 1975, in the effective date statement at the end of the document, the date now reading "September 29, 1975" should be changed to read "October 3, 1975".

Title 24—Housing and Urban Development
CHAPTER V—OFFICE OF ASSISTANT SEC-
RETARY OF COMMUNITY PLANNING
AND DEVELOPMENT

[Docket No. R-75-292]

PART 570—COMMUNITY
DEVELOPMENT BLOCK GRANTS

Submission of Applications

On April 4, 1975, in 40 FR 15089, the Department amended § 570.300(a) of Title 24 of the Code of Federal Regulations which governs the deadlines for submission of applications for community development block grants under Title I of the Housing and Community Development Act of 1974, Pub. L. 93-383. The Part 570 regulation was published November 13, 1974 (39 FR 40136). The purpose of that amendment was to extend the deadline for application submissions by urban counties. The regu-

lations currently require applicants to notify HUD by March 1, 1975, of their inability to submit an application within the prescribed time limit. We are changing the March 1, 1975, deadline to April 15, 1975, on the basis that experience has shown that it was not possible for all applicants to foresee the need for a time extension prior to March 1, 1975. Therefore, § 570.300(a) is hereby revised to extend the deadline for applicants notifying HUD of their inability to apply for assistance under this Part to April 15, 1975. It is necessary that this amendment take effect at the earliest possible date so that those applicant unable to meet the previously established deadlines can plan the completion of their work within the time remaining under the extended dates. Accordingly, the Assistant Secretary for Community Planning and Development finds good cause for foregoing usual public comment and notice procedure, and he finds further good cause that this amendment to the regulations should take effect on the date of publication. In connection with the environmental review of this technical change to the final Regulations, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19182. The section is amended as follows: In Subpart D of Part 570, § 570.300(a) is revised to read:

§ 570.300 Pre-submissions.

(a) **Timing of submission of applications.** The Secretary will establish from time to time the earliest and latest dates for submission of an application for each fiscal year. Applications, or draft materials relating to applications, received before the earliest date will be returned to the applicant without review. For fiscal year 1975, the earliest date for submission of an application shall be December 1, 1975; the latest date shall be April 15, 1975. *Provided, however,* That the Secretary may extend the April 15, 1975, deadline for submission of an application in particular cases in which, in his judgment, procedures mandated by state statute or regulation render submission of the application by April 15, 1975, impracticable, but in no event will submission of an application be accepted after May 30, 1975. Applicants wishing to request an extension of the April 15, 1975, deadline pursuant to this paragraph shall inform the appropriate HUD Area Office by April 15, 1975, giving the basis for the applicant's inability to file an application by April 15, 1975. No extension will be granted if the request for extension and the reasons therefor have not been received by HUD by April 15, 1975. *Provided, further,* That all counties which have been advised by HUD of either final qualification or preliminary recognition for qualification as urban counties under § 570.105 may have their deadline for submission of their applications extended to May 15, 1975; provided, however, that the request for such an extension has been received by the HUD Area Office by April 15, 1975. Cooperation agreements, where required for urban counties, shall be submitted not later than fifteen days after the date an ap-

plication from an urban county has been received for processing in HUD. Prior to the earliest date for submission of an application for each fiscal year, HUD will provide all applicants with forms and instructions, including the actual or estimated entitlement amount. Entitlement applicants wishing to apply for discretionary grants shall follow the procedures described in Subpart E, Applications and Criteria for Discretionary Grants.

Effective date. This amendment shall be effective on April 14, 1975.

DAVID O. MEEKER, JR.,
FAIA, AIP, Assistant Secretary,
for Community Planning and
Development.

[FR Doc. 75-9814 Filed 4-11-75; 8:45 am]

Title 26—Internal Revenue

CHAPTER 1—INTERNAL REVENUE SERV-
ICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7352]

PART 1—INCOME TAX; TAXABLE YEARS
BEGINNING AFTER DECEMBER 31, 1953

Sick Pay Exclusion

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under sections 72, 101, and 105 of the Internal Revenue Code of 1954, pertaining to the application of the sick pay exclusion to pensions received by individuals retired from work because of personal injuries or sickness, and to the application of section 72 (treatment of annuities) to accident and health plans.

Proposed regulations on this topic were published in the FEDERAL REGISTER on December 27, 1974 (39 FR 44759), and consideration was given to all such relevant matter as was presented by interested persons.

Amendments to the regulations. In view of the foregoing, the Income Tax Regulations (26 CFR Part 1) under sections 72, 101, and 105 of the Internal Revenue Code of 1954 are revised as follows:

Paragraph 1. Paragraph (b)(2) of § 1.72-4 is amended to read as follows:

§ 1.72-4 Exclusion ratio.

(b) **Annuity starting date.**

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the annuity starting date shall be determined in accordance with whichever of the following provisions is appropriate:

(i) In the case of a joint and survivor annuity contract described in section 73 (i) and paragraph (b)(3) of § 1.72-5, the annuity starting date is January 1, 1954, or the first day of the first period for which an amount is received as an annuity by the surviving annuitant, whichever is the later;

(ii) In the case of the transfer of an annuity contract for a valuable consideration, as described in section 72(g) and paragraph (a) of § 1.72-10, the annuity starting date shall be January 1,

1954, or the first day of the first period for which the transferee received an amount as an annuity, whichever is the later;

(iii) If the provisions of paragraph (e) of § 1.72-11 apply to an exchange of one contract for another, or to a transaction deemed to be such an exchange, the annuity starting date of the contract received (or deemed received) in exchange shall be January 1, 1954, or the first day of the first period for which an amount is received as an annuity under such contract, whichever is the later; and

(iv) In the case of an employee who has retired from work because of personal injuries or sickness, and who is receiving amounts under a plan that is a wage continuation plan under section 105(d) and § 1.105-4, the annuity starting date shall be the date the employee reaches mandatory retirement age, as defined in § 1.105-4(a)(3)(i)(B). (See, also §§ 1.72-15 and 1.105-6 for transitional and other special rules.)

Par. 2. Section 1.72-15 is amended by revising paragraphs (a) and (d), example (1) of paragraph (f), and by adding a new paragraph (i) to read as follows:

§ 1.72-15 Applicability of section 72 to accident or health plans.

(a) *Applicability of section.* This section provides the rules for determining the taxation of amounts received from an employer-established plan which provides for distributions that are taxable under section 72 (or for distributions that are taxable under section 402(a)(2) or (e), or section 403(a)(2), in the case of lump sum distributions) and which also provides for distributions that may be excludable from gross income under section 104 or 105 as accident or health benefits. For example, this section will apply to a pension plan described in section 401 and exempt under section 501 which provides for the payment of pensions at retirement and the payment of an earlier pension in the event of permanent disability. This section will also apply to a profit-sharing plan described in section 401 and exempt under section 501 which provides for periodic distribution of the amount standing to the account of a participant during any period that the participant is absent from work due to a personal injury or sickness and for the distribution of any balance standing to the account of the participant upon his separation from service. For purposes of this section, the term "contributions of the employee" includes contributions by the employer which were includible in the employee's gross income. For special rules for taxable years ending before January 27, 1975, relating to certain accident or health benefits which were treated as distributions to which section 72 applied, see paragraph (i) of this section.

(d) *Accident or health benefits attributable to employer contributions.* Any amounts received as accident or health benefits and not attributable to contribu-

tions of the employee are includible in gross income except to the extent that such amounts are excludable from gross income under section 105 (b), (c), or (d) and the regulations thereunder. Thus, such amounts may be excludable under section 105(d) as payments under a wage continuation plan. However, if such payments, when added to other such payments attributable to employer contributions, exceed the limitations of section 105(d), then the excess is includible in gross income under section 105(a). Such excess is not excludable under section 72. See, however, paragraph (i) of this section, for special rules for taxable years ending before January 27, 1975, relating to certain accident or health benefits which were treated as distributions to which section 72 applied.

(f) Examples. * * *

Example (1). A, an employee, is a participant in a contributory pension plan described in section 401(a) and exempt under section 501(a). Such plan provides for the payment of a pension to each participant when he retires at age 65 or when he retires earlier if the retirement is due to permanent and total disability. In 1964, A, who was age 52, became totally and permanently disabled because of an injury, was hospitalized, and commenced to receive a pension of \$74 a week under this plan. The weekly amounts received by A do not exceed 75 percent of his "regular weekly rate of wages" under section 105(d). A had contributed \$11,500 to the plan. The plan does not expressly provide that any portion of the disability pension is purchased with employee contributions. Accordingly, it is presumed that no portion of the disability pension is purchased with A's contributions. The disability pension which A receives qualifies as payments under a wage continuation plan for purposes of section 105(d) and § 1.105-4, and if such payments are the only accident or health benefits which are attributable to the contributions of his employer, such payments are entirely excludable under section 105(d) until A reaches age 65, his mandatory retirement age under the plan. The payments which A receives after he becomes age 65 are taxable under section 72. The payments which A receives do constitute an annuity as defined in paragraph (b) of § 1.72-2, but since the amounts which he will receive during the first three years after attaining age 65 exceed his contributions, he shall exclude under § 1.72-13 the entire amount of all payments that he receives as an annuity after attaining age 65 until such amounts equal his contributions to the plan, or \$11,500. Thereafter, the payments that he receives under the plan are includible in gross income.

(i) *Special rules.*—(1) Special rule for taxable years ending before January 27, 1975. A taxpayer who has reached retirement age, as defined in § 1.79-2(b)(3) (hereinafter referred to as "initial retirement age"), before January 27, 1975, and who has received payments under a plan described in paragraph (a) of this section, which are wage continuation benefits to which section 105(d) and this section apply, or which are treated as such by reason of the employee having so agreed under § 1.105-6, shall be entitled to an exclusion, in taxable years ending before January 27, 1975, with respect to

payments received after initial retirement age but before mandatory retirement age, as defined in § 1.105-4(a)(3)(i)(B), which is the greater of:

(i) the amount actually excluded on an original return under section 72 (b) or (d) with respect to payments received after initial retirement age, to the extent such amount does not exceed an amount properly excludable under section 72 (b) or (d) if this paragraph and paragraph (b) of this section did not apply; or

(ii) the amount that would have been properly excludable under section 105(d) during the same period.

(2) *Investment in the annuity contract.* A taxpayer described in paragraph (i)(1) of this section, shall redetermine his investment in, consideration for, or basis of his annuity contract (hereinafter referred to in this paragraph as the "investment in the contract") in accordance with the applicable rules of section 72 and the regulations thereunder, and the rules of this paragraph. In making such redetermination the taxpayer's investment in his contract shall be decreased, by the excess (if any) of the amount which the taxpayer is entitled to exclude under paragraph (i)(1) of this section over the amount which could have been excluded under section 105(d) (subject to the limitations contained in such provision). Such investment in the contract shall be decreased only by the excess of the amount excluded under section 72 in taxable years ending before January 27, 1975, over the amount which could have been excluded under section 105(d) during the same period. For example, the investment in the contract shall not be decreased in the case of an individual who was retired from work on account of injury or sickness for a full taxable year, if the amount excluded under section 72 was less than \$5,200, since the entire amount could have been excluded under section 105(d). On the other hand, if the amount excluded under section 72 was equal to or greater than \$5,200 for a full taxable year, for example, \$6,000 for the full taxable year, then \$5,200 shall be treated as excluded under section 105(d) and the investment in the contract shall be reduced by \$800 (\$6,000-\$5,200).

(3) *Surviving annuitants and beneficiaries.* (i) The rights of a surviving annuitant or beneficiary, with respect to the application of the rules of section 72, shall be based on the employee's investment in his annuity contract, as adjusted in accordance with the provisions of this paragraph. Thus, where an employee dies after having recomputed his investment as provided in paragraph (i)(2) of this section, and his contract provided a survivorship element, the survivor would assume the employee's recomputed investment for purposes of determining excludability of amounts under section 72.

(ii) Where a beneficiary failed to increase the amount treated as an employee's contribution toward his annuity contract to reflect the employee death benefit under section 101(b) and § 1.72-8 (b), because the employee had treated his

initial retirement age as his annuity starting date, such beneficiary may apply section 101(b) as if the appropriate addition to basis had been made in the year of the employee's death, but only if the employee had not reached his mandatory retirement age (as defined in section 105-4(a)(3)(i)(B)). For purposes of this paragraph, the amount treated as the section 101(b) death benefit would be valued as of the date of the employee's death.

(4) *Records.* (i) For purposes of section 72(b) and (d), and this section, the taxpayer shall maintain such records as are necessary to substantiate the amount treated as his investment in his annuity contract.

(ii) The Commissioner may prescribe a form and instructions with respect to the taxpayer's past and current treatment of amounts received under section 72 or 105, and the taxpayer's computation, or recomputation, of his investment in his annuity contract. Such form may be required to be filed with the taxpayer's returns for years in which amounts are excluded under section 72 or 105.

(5) *Cross references.* (i) See section 72(b)(4) and § 1.72-4(b) with respect to annuity starting dates.

(ii) See §§ 1.72-3(b) and 1.101-2(a)(2) with respect to treating certain amounts received by an estate or beneficiary as employee death benefits.

(iii) See § 1.105-4(a)(3)(i)(B) for the definition of "mandatory retirement age."

(iv) See § 1.105-6 with respect to the application of section 105(d) to certain amounts received as retirement annuities before January 27, 1975, where the employee would otherwise have been eligible for benefits to which section 105(d) applies.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples. In such examples assume that the plan does not expressly provide that any portion of the disability pension is purchased with employee contributions. Accordingly, it is presumed that no portion of the disability pension is purchased with employee contributions. Also, assume that in each case the taxpayer retired only after he had been absent from work for at least 30 days on account of personal injuries or sickness:

Example (1). A, a calendar year taxpayer, retired because of disability on January 1, 1968, his 58th birthday, receiving \$80 per week (\$4,160 per year) under a plan which qualifies as a wage continuation plan under section 105(d) and § 1.105-4. Under the plan, A's initial retirement age is age 60 (January 1, 1970), and his mandatory retirement age is 65 (January 1, 1975). A's consideration for the contract was \$10,000. For payments received in 1968 and 1969 A excluded the entire amount under section 105(d). Payments received with respect to periods after A's initial retirement age (January 1, 1970) were excluded under section 72(d) until his entire \$10,000 consideration for his contract had been excluded. Thus, A applied section 72(d) to exclude \$4,160 each year for taxable years 1970 and 1971, and \$1,680 (\$10,000 - (\$4,160 + \$4,160)) for 1972. In late 1974 A realized that he was entitled to treat the

full amount received under his annuity as excludable under section 105(d) rather than section 72 for the taxable years 1970 through 1974. Consequently, A filed amended returns for 1972 and 1973 excluding an additional \$2,480 (\$4,160 - \$1,680) and \$4,160, respectively, claiming refunds based upon such additional exclusions. Moreover, A's annuity starting date is January 1, 1975 (A's mandatory retirement age), and he excludes under section 72(d) for 1975, 1976, and 1977, \$4,160, \$4,160 and \$1,680 (\$10,000 - (\$4,160 + \$4,160)), respectively.

Example (2). B, a calendar year taxpayer retired because of disability, July 1, 1970, on his 58th birthday, receiving \$1,000 per month under a plan which qualifies as a wage continuation plan for purposes of section 105(d) and § 1.105-4. Under the plan, B's initial retirement age is age 60 (July 1, 1972), and his mandatory retirement age is 65 (July 1, 1977). B's consideration for the contract was \$25,000. For payments received in 1970 and 1971 B excluded under section 105(d) \$2,600 and \$5,200, respectively, of the \$6,000 ($6 \times \$1,000$) and \$12,000 ($12 \times \$1,000$) received under the plan. For the period January 1, 1972, through June 30, 1972, B excluded an additional \$2,600 under section 105(d). For the period July 1, 1972 through December 31, 1972, B excluded under section 72(d)(1) the entire \$6,000 in payments received under the plan. Similarly, under section 72(d)(1), B excluded the entire \$12,000 in payments received under the plan in 1973, and in 1974 B excluded the remaining \$7,000 of his annuity basis. In 1975, B realized that he will be entitled to take full advantage of the exclusion under section 105(d) for periods through June 30, 1977, when he would reach age 65. B need not file amended returns for 1972, 1973, and 1974, even though the amounts he excluded under section 72(d) (exceeded the amount he was entitled to exclude under section 105(d)). He must, however, recompute the amount that will be treated as his investment in his annuity contract. Thus, on July 1, 1977, B's annuity starting date, his investment in his annuity contract would be \$13,000, recomputed as follows:

B's original investment.....	\$25,000
Less amounts excluded under section 72 to the extent they exceed amounts that would have been excludable during the same period under section 105(d):	
1972 (\$6,000 - 2,600).....	3,400
1973 (\$12,000 - 5,200).....	6,800
1974 (\$7,000 - 5,200).....	1,800
Total	\$12,000

B's recomputed investment in his annuity contract..... 13,000

Example (3). Assume the same facts as in example (2) except that B's investment in his annuity contract is \$37,000, and he excluded under section 72(b) 16.9 percent, or \$2,028, of the \$12,000 received per year. Thus, for the period July 1, 1972 through December 31, 1972, B excluded under section 72(b) \$1,014 (16.9 percent of \$6,000), and \$2,028 in both 1973 and 1974. B files amended returns for 1972, 1973 and 1974 claiming the exclusion under section 105(d). Thus, B restored to income \$1,014 for 1972, and \$2,028 for both 1973 and 1974, claiming \$2,600 (\$5,200 - \$2,600) exclusion under section 105(d) for 1972 and a \$5,200 exclusion in both 1973 and 1974. Thus, for 1972 B is entitled to an additional exclusion of \$1,586 (\$2,600 - \$1,014), and, for both 1973 and 1974, an additional exclusion of \$3,172

(\$5,200 - \$2,028). On July 1, 1977, B's investment in the contract is \$37,000.

Example (4). C, a calendar year taxpayer, retired because of disability on January 1, 1965, his 58th birthday, receiving payments of \$500 per month under a plan which qualifies as a wage continuation plan for purposes of section 105(d) and § 1.105-4. C had contributed \$18,000 toward the cost of his annuity contract. Under the plan, C's initial retirement age is age 60 (January 1, 1967) and C's mandatory retirement age is age 70 (January 1, 1977). For taxable years 1965 and 1966 C excluded from gross income under section 105(d) \$5,200 of the \$6,000 ($12 \times \$500$) he received from his employer as wage continuation benefits. On January 1, 1967, C began excluding all of the benefits C received in accordance with the rules of section 72(d). Thus, for 1967, 1968 and 1969, C excluded 100 percent of the annuity payments. For his taxable years 1970 through 1973, C included in his gross income all annuity payments. In 1974, C realized that he will be entitled to use the exclusion under section 105(d) through December 31, 1976 (until he reaches age 70). In 1974, C filed a timely claim for refund for his taxable years 1971, 1972 and 1973 (refunds for taxable year 1970 and prior years were barred by the statute of limitations), and continues to claim the exclusion under section 105(d) for 1974, 1975 and 1976. For 1977, C treats January 1, 1977, as the annuity starting date, and treats \$15,600 as the investment in the contract. The \$15,600 represents the \$18,000 original investment in the contract reduced by the excess, \$2,400, of the amount excluded under section 72 for 1967, 1968 and 1969 (\$18,000 over the amount excludable under section 105(d) (\$5,200 $\times$ 3) for such years).

Example (5). (i) D, a calendar year taxpayer, retired because of disability on June 30, 1965, receiving \$100 per month under a plan which qualifies as a wage continuation plan for purposes of section 105(d) and § 1.105-4. Under the plan, the initial retirement age of D, whose birthday is January 1, is age 60 (January 1, 1967), and D's mandatory retirement age is age 70 (January 1, 1977). D had contributed \$6,000 toward the cost of the annuity contract under such plan. For 1965 and 1966, D excluded under section 105(d) the entire amount received under the plan (\$600 and \$1,200 respectively). For 1967 through 1973, D excluded \$330 per year under section 72(b), or 27.5 percent of the \$1,200 payment received under the plan per year.

(ii) In 1974, D realized that he will be entitled to use the exclusion provided in section 105(d) up until January 1, 1977, when he reaches his mandatory retirement age, and that he improperly applied section 72 to payments received in the years 1967 through 1973. In 1974, D filed a timely claim for refund with respect to the section 105(d) wage continuation benefits, for 1971, 1972 and 1973 (refunds for taxable year 1970 and prior years were barred by the statute of limitations), and continues to claim the section 105(d) exclusion for 1974, 1975 and 1976. D is entitled to an additional exclusion of \$870 (\$1,200 - \$330) for each of the years 1971, 1972 and 1973.

(iii) Upon reaching mandatory retirement age on January 1, 1977, D treats such date as the annuity starting date, and treats \$6,000 as the investment in the contract. The investment in the contract is not reduced, because the amount excluded under section 72(b) for 1967 through 1970 (\$330 per year) does not exceed the amount excludable under section 105(d) (\$1,200 per year), and the \$330 per year excluded for 1971, 1972, and 1973 were restored to the

investment in the contract. Therefore, assuming that D would be entitled to exclude 41.3 percent of the payments under the plan if the annuity starting date is January 1, 1977, D would be entitled to exclude \$495.60 (41.3 percent of \$1,200) per annum.

Example (6). Assume the facts stated in example (5) except that D's investment in his annuity contract is \$100,000 and he received payments equaling \$10,000 per year. Assume also, that D had excluded under section 72(b) 54.9 percent of the payments received under the plan through 1974. Consequently, he excluded \$5,490 (54.9 percent of \$10,000) from his gross income for the years 1967 through 1974. D need not file amended returns for 1971, 1972, 1973, and 1974, even though the amount he excluded under section 72(b) exceeded the amounts he was entitled to exclude under section 105(d). He must, however, recompute the amount that will be treated as his investment in his annuity contract. Thus, on January 1, 1977, D's annuity starting date, his investment in his annuity contract would be \$97,680. This figure represents the original investment (\$100,000) reduced by the amount excluded under section 72(b) for the years 1967-1974 ($8 \times \$5,490 = \$43,920$) over the amount properly excludable during those years under section 105(d) ($\$5,200 \times 8 = \$41,600$).

Example (7). Assume the same facts as in example (6) except that D's mandatory retirement age is 63 (January 1, 1970). D would determine his exclusion ratio for purposes of section 72(b) as of January 1, 1970, since D's mandatory retirement age is D's annuity starting date. D would treat \$99,130 as his investment in his annuity contract as of such date for purposes of section 72(b). Assuming refunds for 1970 and prior taxable years were barred by the statute of limitations, the \$99,130 represents the original investment of \$100,000 reduced by the excess of the amount excluded under section 72(b) for 1967, 1968, and 1969 ($\$5,490 \times 3 = \$16,470$) over the amount otherwise excludable during those years under section 105(d) ($\$5,200 \times 3 = \$15,600$). Therefore, assuming that D would be entitled to exclude 61.2 percent of the payments received under the plan if the annuity starting date is January 1, 1970, D would be entitled to exclude \$6,120 (61.2 percent of the \$10,000 received under the plan) per annum for 1971 and subsequent years. However, D is not entitled to exclude the additional \$630 ($\$6,120 - \$5,490$) for 1970, because credit or refund for 1970 and prior years is barred by the statute of limitations.

Par. 3. Paragraph (a) (2) of § 1.101-2 is amended to read as follows:

§ 1.101-2 Employees' death benefits.

(a) In general. * * *

(2) The exclusion does not apply to amounts constituting income payable to the employee during his life as compensation for his services, such as bonuses or payments for unused leave or uncollected salary, nor to certain other amounts with respect to which the deceased employee possessed, immediately before his death, a nonforfeitable right to receive the amounts while living (see section 101(b)(2)(B) and paragraph (d) of this section). Further, the exclusion does not apply to amounts received as an annuity under a joint and survivor annuity obligation where the employee was the primary annuitant and the annuity starting date occurred before the death of the employee (see section 101(b)(2)(C) and paragraph (e)(1)(ii)

of this section). In the case of amounts received by a beneficiary as an annuity (but not as a survivor under a joint and survivor annuity with respect to which the employee was the primary annuitant), the exclusion is applied indirectly by means of the provisions of section 72 and the regulations thereunder (see section 101(b)(2)(D) and paragraph (e)(1)(iii) and (iv) of this section). Thus, for example, the exclusion applies to amounts which are received by a survivor of an employee retired on disability under the provisions of the Civil Service retirement law (5 U.S.C. 8301 or any former corresponding provisions of law) or the Retired Serviceman's Family Protection Plan or Survivor Benefit Plan (10 U.S.C. 1431 et seq.), provided such employee dies before attaining mandatory retirement age (as defined in § 1.105-4(a)(3)(i)(B)).

Par. 4. Paragraph (a) (2)(i) and (3)(i) of § 1.105-4 is amended to read as follows:

§ 1.105-4 Wage continuation plans.

(a) In general. * * *

(2)(i) Section 105(d) is applicable only if the wages or payments in lieu of wages are paid pursuant to a wage continuation plan. (See § 1.105-6 for special rules for employees retired before January 27, 1975). The term "wage continuation plan" means an accident or health plan, as defined in § 1.105-5, under which wages, or payments in lieu of wages, are paid to an employee for a period during which he is absent from work on account of a personal injury or sickness. Such term includes plans under which payments are continued as long as the employee is absent from work on account of personal injury or sickness. It includes plans under which there is a limitation on the period for which benefits will be paid, such as 13 or 26 weeks, and also plans under which benefits are continued until the employee is either able to return to work or reaches mandatory retirement age. Such term also includes a plan under which wages or payments in lieu of wages are paid to an employee who is absent from work on account of personal injury or sickness, even though the plan also provides that wages or payments in lieu of wages may be paid to an employee who is absent from work for reasons other than a personal injury or sickness.

(3)(i)(A) Section 105(d) applies only to amounts attributable to periods during which the employee would be at work were it not for a personal injury or sickness. Thus, an employee is not absent from work if he is not expected to work because, for example, he has reached mandatory retirement age. If a plan provides that an employee, who is absent from work on account of a personal injury or sickness, will receive a disability pension or annuity as long as he is disabled, section 105(d) is applicable to any payments that he receives under this plan before reaching mandatory retire-

ment age, as defined in paragraph (a)(3)(i)(B) of this section. Thus, section 105(d) would not apply to the payments that an employee receives after reaching mandatory retirement age. The disability retired pay received by a member on the retired list pursuant to section 402 of the Career Compensation Act of 1949 (63 Stat. 802) or chapter 61 of title 10, United States Code (10 U.S.C. 1201 et seq.) which is in excess of the amounts excludable under section 104(a)(4) and paragraph (e) of § 1.104-1 shall be excluded from gross income subject to the limitations of section 105(d) and this section, if such pay is received before the member reaches mandatory retirement age. See § 1.72-15 for additional rules relating to the tax treatment of disability pensions. For the rules relating to certain reduced uniformed services retirement pay, see paragraph (c)(2) of § 1.122-1. For rules relating to a waiver by a member or former member of the uniformed services of a portion of disability retired pay in favor of a pension or compensation receivable under the laws administered by the Veterans Administration (38 U.S.C. 3105), see § 1.122-1(c)(3).

(B) The term "mandatory retirement age" as used in paragraph (a)(3)(i)(A) of this section means the age set by an employer for the mandatory retirement of employees in the class to which the taxpayer last belonged, unless such age has been set at an age higher than that at which it has been the practice of the employer to terminate, due to age, the services of such employees, or for purposes of tax avoidance. Where no age is set for mandatory retirement, such term means age 65, or, if higher, the age at which it has been the practice of the employer to terminate, due to age, the services of the class of employees to which the taxpayer last belonged.

Par. 5. The following section is added immediately after § 1.105-5 to read as follows:

§ 1.105-6 Special rules for employees retired before January 27, 1975.

(a) Application of section 105(d) to amounts received as retirement annuities. An employee who retired from work before January 27, 1975, receiving payments under his employer-established plan (to which § 1.72-15(a) applies) which payments were not treated as amounts received under a wage continuation plan for purposes of section 105(d), may, as of the date the employee retired, treat such plan as such a wage continuation plan to the extent such payments are received prior to mandatory retirement age (as described in § 1.105-4(a)(3)(i)(B)), if—

(1) His employer had in operation at the time of his retirement a program providing accident and health benefits under a wage continuation plan to which section 105(d) would apply;

(2) The employer certifies, under procedures approved in advance under paragraph (c) of this section, that the employee would have been eligible for wage continuation benefits, under the terms

and conditions of his employer's plan, because of personal injuries or sickness;

(3) At the time of the employee's retirement there was no substantive difference between the benefits being actually received and the benefits he would have received had he retired under his employer's wage continuation plan; and

(4) The employee agrees to the adjustments and conditions required by the Commissioner with respect to amounts excluded under section 72 (b) or (d) in taxable years ending before January 27, 1975.

(b) *Filing requirements.* (1) The certification required in paragraph (a) (2) and the agreement required in paragraph (a) (4) of this section shall be filed on or before April 15, 1977, with the return, or timely amended return or claim, made for the taxable year in which the employee reached retirement age as described in § 1.79-2(b) (3), or, for the first taxable year for which the taxpayer files an income tax return claiming an exclusion under section 105(d), as provided in paragraph (a) of this section.

(2) The Commissioner may prescribe a form and instructions with respect to the agreement provided for in paragraph (a) (4) of this section.

(c) *Employer certification.* (1) *Advance approval of procedures.* Any reasonable and consistently applied procedures, approved in advance by the Internal Revenue Service, which require the employee to provide the employer or the insurer with medical documentation sufficient to show that an illness or disability existed as of the date of the employee's retirement, which would have entitled him to retire on account of personal injuries or sickness alone, are sufficient for purposes of this paragraph.

(2) *Place of submission.* Request for advance approval of procedures for certification shall be submitted to the district director.

(d) *Cross reference.* For special rules pertaining to taxpayers retired on disability before January 27, 1975, see § 1.72-15(i).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: April 9, 1975.

ERNEST S. CHRISTIAN, Jr.
Deputy Assistant Secretary
of the Treasury.

[FR Doc.75-9689 Filed 4-9-75; 4:42 pm]

Title 40—Protection of Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-335-3]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart H—Emission Regulations for New Gasoline-Fueled Heavy Duty Engines

Correction

In FR Doc. 75-4746 appearing in the issue of Thursday, February 27, 1975, on

page 8490, column one, the reference in § 85.774-11 (a) (3) should read "(a) (2)".

Title 43—Public Lands: Interior CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS [Public Land Order 5495; CA-2643]

CALIFORNIA

Correction of Typographical Errors in Presidential Proclamation No. 4319

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

Presidential Proclamation No. 4319 which appeared in the October 1, 1974, issue of the FEDERAL REGISTER, is hereby corrected as shown below:

1. On page 35319, the fifth line beginning, "thence South 10°54'05" East 317.40 feet," should read, "thence South 10°54'05" East 117.40 feet."

2. On page 35319, the seventh line beginning, "15°11'11" East 117.03 feet to an intersection * * *" should read, "15°11'11" East 177.03 feet to an intersection * * *."

3. On page 35321, the fifth line below the heading, Parcel "C", delete the word "said" preceding Miscellaneous Map No.

4. On page 35321, the sixth line below the heading, Parcel "C", between "129" and the word "the", add the following: "filed in the Office of the County Recorder of San Diego County, California, April 16, 1934."

5. On page 35321, the last two lines, the hyphenated word "EXCEPTING" commencing on the second line from the bottom, should be deleted, and the word "RESERVING" should be substituted in its place.

JACK O. HORTON,
Assistant Secretary of the Interior.

APRIL 4, 1975.

[FR Doc.75-9364 Filed 4-11-75; 8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 237—FISCAL ADMINISTRATION OF FINANCIAL ASSISTANCE PROGRAMS

Maintenance of State Effort

Part 237, Chapter II, Title 45 of the Code of Federal Regulations is amended by revoking the content of § 237.60, because the requirements contained therein are no longer in effect. Section 1117 of the Social Security Act was repealed, effective July 1, 1968, and any audit questions pertinent to Federal claims for the fiscal years ending June 30, 1967 and June 30, 1968 have been resolved.

§ 237.60 [Reserved]

Section 237.60 is vacated and reserved. (Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)).

Effective date. The regulation shall be effective on April 14, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program;

13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: April 2, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and
Rehabilitation Service.

Approved: April 9, 1975.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.75-9655 Filed 4-11-75; 8:45 am]

Title 47—Telecommunication

[Docket No. 20222; RM-2206, RM-2270; FCC 75-394]

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments

1. The Commission has under consideration its notice of proposed rule making adopted November 5, 1974, 39 FR 40170, inviting comments on separate proposals to assign a third and fourth Class C FM channel to Boise, Idaho. This proceeding was instituted on the basis of (1) a petition filed on May 31, 1973, by Gem State Broadcasting Corporation (Gem State), licensee of unlimited-time AM Station KGEM, Boise, requesting the assignment of Channel 286 (RM-2206), and (2) a petition filed on October 25, 1973, by KYME Broadcasters, Inc. (KYME), licensee of daytime-only AM Station KYME, Boise, requesting the assignment of Channel 282 (RM-2270). There were no oppositions to the proposals. Supporting comments were filed by the respective petitioners.

2. Boise has a population of 74,990 and is the seat of Ada County (population 112,230)¹ as well as the capital and largest city in the State of Idaho. Aural service is presently provided to Boise by 6 AM stations (3 unlimited-time) and two FM stations (KBBK-FM, Channel 222 and KBIO-FM, Channel 250).

3. Petitioners point out that Boise's population more than doubled between the Census years 1960 and 1970 and that the Ada County Council of Government indicates that by 1980 Boise's population will be 117,000. They state that Boise is the major industrial, commercial, and financial center of the State of Idaho and the marketing center for commodity distributors and wholesalers serving an area comprised of a population of over 290,000. Petitioners contend that addition of both proposed channels is justified because of the growing needs and diverse interests of a growing population. Petitioners, in supporting comments, reiterate their intent to prepare and file applications for construction permits for either of the proposed channels in the event they are assigned.

4. A preclusion study indicates that large areas are precluded on both adjacent and co-channels. However, the areas are essentially rural, and there are a number of unused channels available for

¹ Population figures cited are from the 1970 U.S. Census.

assignment in those areas. Assignment of the proposed two channels would meet our spacing requirements, and would not affect other channel assignments in the FM Table.

5. We believe that the two proposed FM channels should be assigned to Boise. Considering the size of Boise (which qualifies for four assignments), its past and anticipated steady growth, and the fact that a number of unused channel assignments are still available in the precluded areas, we are of the view that

the assignment of the channels would serve the public interest.

6. Authority for the action taken herein is contained in section 4(l), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

7. In view of the foregoing, *It is ordered*, that effective May 19, 1975, § 73.202(b) of the Commission's rules, the Table of Assignments, is amended to read as follows:

City:	Channel No.
Boise, Idaho.....	222, 250, 282, 288

8. *It is further ordered*, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted: April 1, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-0620 Filed 4-11-75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 210]

FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Notice of Proposed Rulemaking

The Department of the Treasury finds it desirable and necessary to propose regulations to provide a new method for the Federal Government to make recurring payments to recipients; for example, social security, civil service, veterans and railroad retirement benefit payments, salary or pay and allowances, and payments of interest on certain public debt obligations. At present most such payments are made by Government checks drawn to the order of recipients or to financial organizations for credit to the accounts of recipients (see 31 U.S.C. 492; 31 CFR Parts 240 and 209 (Treasury Department Circulars 21 and 1076)).

The proposed method will provide for making future recurring payments to recipients by means other than by check; for example, through the transfer of payment data by the use of electronic or other means, thereby reducing the number of checks used to discharge the Government's obligations.

It is contemplated that at the outset the proposed transfer of funds system would involve the Government's preparation of magnetic tapes reflecting the necessary data to accomplish payment to recipients who have chosen to be paid by credit to their accounts in financial organizations. Delivery of the data by the Government to the Federal Reserve Banks would constitute an issuance by the Government of orders for the payment of money which would be made available by the Federal Reserve Banks, utilizing Federal Reserve distribution systems, to those financial organizations which have been designated by recipients and which have agreed to participate in the system and to accept payments for the recipients. The Federal Reserve Banks would make the dollar amounts of such orders available to the financial organizations which in turn would credit the funds to the recipients' accounts on the books of the financial organizations.

Adoption of this proposed new payment method should decrease hardship and inconvenience to recipients and losses to the Government and to financial organizations arising from the present use of checks which are subject to theft and forgery. The new method should also lead to greater efficiency in the processing of such recurring payments, which are estimated to reach 50 million per month in the foreseeable future.

The participation in a program of payments made through financial organizations rather than directly to recipients would be voluntary for recipients and financial organizations, and as applied to recipients and financial organizations would be based on the completion by each of its part of a Standard Authorization Form. However, after execution of such Form the method of payments, whether by check pursuant to Parts 209 and 240 of this title or means other than check pursuant to this Part, is optional with the Government and the financial organization. The option of payment by Government check directly to recipients would remain with the recipients.

It is contemplated at this time that the program would first be initiated with respect to social security benefit payments and Air Force payroll payments, and in due course would be expanded to include other recurring payments.

Accordingly, notice is hereby given that the Secretary of the Treasury proposes to amend Title 31, Subtitle B, Chapter II of the Code of Federal Regulations by the addition of a new Part 210. Interested persons may submit comments on the proposed regulation in writing to the Fiscal Assistant Secretary of the Treasury, Washington, D.C. 20220, for a period of 60 days from the date of this publication. Copies of such comments received will be available for public inspection and copying upon request in accordance with the Treasury's rules regarding Access To Records (31 CFR Part 1, Subpart A). The proposed Part 210 reads as follows:

PART 210—FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Sec.	
210.1	Scope of regulations.
210.2	Definitions.
210.3	Federal Reserve Banks.
210.4	Recipients.
210.5	Program agencies.
210.6	The Government.
210.7	Financial organizations.
210.8	Timeliness of action.
210.9	Death or legal incapacity of recipients or death of beneficiaries.
210.10	Liability of and acquittance to the United States.

AUTHORITY: This Part 210 is issued pursuant to 5 U.S.C. 301; 12 U.S.C. 391, Title 31, U.S.C., and other provisions of law.

§ 210.1 Scope of regulations.

This part governs the making of recurring payments by the Government, by means other than by check, through Federal Reserve Banks and financial organizations to recipients maintaining accounts at such financial organizations.

§ 210.2 Definitions.

As used in this Part, unless the context otherwise requires:

(a) "Federal Reserve Bank" means any Head Office or Branch Office of any such Bank, acting as Fiscal Agent of the United States.

(b) "Financial organization" means any bank, savings bank, savings and loan association or similar institution, or Federal or State-chartered credit union which has indicated its preparedness to have credit payments issued to it under this Part.

(c) "Government" means the Department of the Treasury, a Federal disbursing office, and a program agency, or any of them.

(d) "Credit payment" means an order for the payment of money issued by the Government under this Part to pay a recurring payment. A credit payment may be contained on (i) a letter, memorandum, telegram, computer print out or similar writing or (ii) any form of communication other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(e) "Payment date" means the date specified for a credit payment. Such date is the date on which the funds specified in the credit payment are to be available for withdrawal from the recipient's account with the financial organization specified by such recipient, and on which such funds are to be made available to the financial organization by the Federal Reserve Bank with which the financial organization maintains or utilizes an account. If the payment date is not a business day for the financial organization receiving a credit payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

(f) "Recipient" means a person to whom the Government makes recurring payments.

(g) "Beneficiary" means a person other than a recipient who is entitled to the benefit of all or part of a recurring payment.

(h) "Recurring payment" means any Federal Government benefit, annuity, or other payment, including any payment of salary, wages, or pay and allowances, which is made at regular intervals.

(i) "Program agency" means an agency which makes recurring payments, and includes any department, agency, independent establishment, board, office, commission or other establishment in the executive, legislative (except the

Senate and House of Representatives), or judicial branch of the Government, any wholly-owned or controlled Government corporation, and the municipal government of the District of Columbia.

(j) "Standard Authorization Form" means the authorization form prescribed by the Government for the recurring payment for execution (i) by a recipient, and (ii) by a financial organization maintaining an account for such recipient.

§ 210.3 Federal Reserve Banks.

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive credit payments from the Government and shall make available and pay such credit payments to financial organizations, and shall otherwise carry out the procedures and conduct the operations contemplated under this Part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this Part, governing the details of its credit payment handling operation and containing such provisions as are required or permitted by this Part.

(b) The Government by its action of issuing and sending any credit payment contained in the media specified in § 210.2(d) hereof shall be deemed to authorize the Federal Reserve Banks: (i) to pay such credit payment to the debit of the general account of the United States Treasury on the payment date and (ii) to handle and act upon such credit payment.

(c) Upon receipt of a credit payment, a Federal Reserve Bank shall, if the credit payment is directed to a financial organization which maintains or utilizes an account on the books of another Federal Reserve Bank, forward such credit payment to such other Federal Reserve Bank. The Federal Reserve Bank on whose books the financial organization or its designated correspondent maintains an account shall deliver or make available such credit payment to such financial organization during the business day prior to the payment date in the format and on the medium as agreed to by such Federal Reserve Bank and financial organization.

(d) A financial organization by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal Reserve Bank to credit the amount of the credit payment to the account on its books of such financial organization or a designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a credit payment from the Government shall make the amount of such credit payment available for withdrawal from the account referred to in § 210.3(d) above on its books at the opening of business on the payment date.

§ 210.4 Recipients.

(a) In order for a recipient to receive recurring payments by means of direct

deposit of the amounts of credit payments under this Part to an account at a financial organization of his choosing, the recipient shall execute the applicable portion and deliver to such financial organization the Standard Authorization Form prescribed by the Government for such recurring payments. A recipient shall be responsible for any inaccuracy in the data entered by him on such Standard Authorization Form.

(b) In executing a Standard Authorization Form, a recipient (i) designates the financial organization and account on the books of such financial organization to which the amounts of the credit payments shall be credited and is deemed to agree to the provisions of this Part, and (ii) shall be deemed to terminate any previously executed Standard Authorization Form or any other inconsistent payment instructions applicable to the relevant recurring payment. Such termination shall become effective when the program agency receives and processes such Form.

(c) A recipient shall execute a separate Standard Authorization Form for each type of recurring payment made hereunder. If a recipient wishes to direct his recurring payment to a different account or financial organization, he shall execute a new standard Authorization Form.

(d) A recipient may, at any time, terminate a Standard Authorization Form by notifying the program agency. Such termination shall become effective when such program agency receives and processes such notice.

(e) The death or other legal incapacity of a recipient or the death of a beneficiary shall terminate a Standard Authorization Form issued with respect to a recurring payment.

(f) A recipient of a recurring payment may request only that a credit payment be in the full amount of such recurring payment and be credited to one account on the books of a financial organization. The procedures set forth in this Part shall not be used for effectuating an assignment of a recurring payment.

(g) A recipient may be required by local law or by financial organization procedures to have the execution of a Standard Authorization Form notarized.

(h) A change in the title of an account shall terminate any Standard Authorization Form in which that account is designated, and shall require the execution of a new Standard Authorization Form before further credit payments may be credited to that account.

§ 210.5 Program agencies.

The program agency will maintain the data necessary for authorization of credit payments and shall make such data available for the issuance of such credit payments in sufficient time for the Government, in performing its disbursing function, to carry out its responsibilities under this Part. Such data shall be certified by the program agency's certifying officer in accordance with 31 U.S.C. 82c.

§ 210.6 The Government.

(a) In performance of its disbursing functions, the Government will, in accordance with the provisions of this Part, issue and direct credit payments to the Federal Reserve Bank on whose books the financial organization named therein maintains or utilizes an account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this Part.

(b) Procedural instructions for the guidance of the Government and Federal Reserve Banks in the implementation of these regulations will be issued by the Department of the Treasury.

(c) The Government may recall a credit payment at any time prior to the payment date.

§ 210.7 Financial organizations.

(a) A financial organization's execution of a Standard Authorization Form shall constitute its agreement to the terms of this Part and of Parts 209 (covering Federal recurring payments by checks drawn to financial organizations for credit to accounts) and 240 (relating to endorsement and payment of checks drawn on the United States). Regardless of whether it has executed a Standard Authorization Form, a financial organization's acceptance and handling of a credit payment issued pursuant to this Part shall constitute its agreement to the provisions of this Part.

(b) A financial organization in executing a Standard Authorization Form shall be responsible for (i) the completeness and accuracy of the data entered by it in its portion of the Standard Authorization Form, and (ii) verifying the depositor account number entered by the recipient on the Standard Authorization Form.

(c) A financial organization wishing to terminate the agreement evidenced by a Standard Authorization Form shall do so by giving written notice to the recipient. Such termination shall become effective thirty days after the financial organization has sent such notice to the recipient.

(d) A financial organization receiving a credit payment shall credit the amount of such credit payment to the designated account of the recipient on its books and shall make such amount available for withdrawal or other use by the recipient not later than the opening of business on the payment date. If the credit payments or any related documentation received by the financial organization from a Federal Reserve Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, the financial organization, after assuring itself that neither it nor any of its agents is responsible, shall immediately notify such Federal Reserve Bank in order that it may deliver corrected material to such financial organization. The financial organization in all cases shall make a reasonable effort to credit the amount of any credit payment to the designated account of the recipient. If after a reasonable effort it is unable to do so, the financial

organization shall promptly return the credit payment to the Federal Reserve Bank with a statement identifying the reason therefor.

(e) A financial organization shall notify the program agency immediately of any event actually known to it which would without further action terminate a Standard Authorization Form or which would otherwise preclude such financial organization from crediting the amount of a credit payment to a recipient's account.

(f) A financial organization shall return to the Government through the Federal Reserve Bank any relevant credit payment received by such financial organization:

(i) After termination pursuant to § 210.4 (d) or (h) of a Standard Authorization Form has become effective;

(ii) After termination pursuant to § 210.7(c) of a Standard Authorization Form has become effective;

(iii) After notifying the program agency of any event terminating the Standard Authorization Form pursuant to § 210.7(e), or

(iv) After receiving notice from the Government that a Standard Authorization Form has been terminated.

(g) A financial organization to which a credit payment is sent under this Part does not thereby become a Government depository and shall not advertise itself as one because of that fact.

(h) Each financial organization by its action of handling a credit payment shall be deemed to warrant to the Government that it has handled such credit payment in accordance with this Part. In addition to the liability which may be imposed pursuant to § 210.9, if the foregoing warranty is breached, the financial organization shall indemnify the Government for any loss sustained by the Government as a result of such breach to the extent that such loss was not the result of the Government's failure to exercise due care. Except as provided in this section, and § 210.9, a financial organization shall not be liable under this Part to any party for its handling of a credit payment.

§ 210.3 Timeliness of action.

If, because of circumstances beyond its control, the Government, a Federal Reserve Bank, or a financial organization shall be delayed beyond the applicable time limits, including but not limited to the payment date provided by this Part, the operating circulars of the Federal Reserve Banks, or applicable law in taking any action with respect to a credit payment, the time within which such action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided the Government, the Federal Reserve Bank, or the financial organization exercises such diligence as the circumstances require. Neither the Government nor the Federal Reserve Bank represent that the amount of a credit payment will be credited to a recipient's account on the payment date.

§ 210.9 Death or legal incapacity of recipients or death of beneficiaries.

No co-owner with the recipient of a joint account on the books of a financial organization, or survivor or legal representative of a recipient or a beneficiary, has any right to the amount of the credit payment credited to the recipient's account after the death or legal incapacity of the recipient or the death of the beneficiary. A financial organization shall be accountable to the Government for the amount of any such credit payments received by such financial organization after the death or legal incapacity of the recipient or the death of the beneficiary: *Provided, however, that if:*

(i) Such amount, or any part thereof, has been withdrawn from the recipient's account; and

(ii) The financial organization did not have, at the time of the deposit and withdrawal, actual knowledge of the recipient's death or legal incapacity, or the beneficiary's death; and

(iii) The financial organization has made a good faith effort to recover the amount withdrawn,

the financial organization shall only be accountable for:

(i) The amount recovered by it; and

(ii) The amount not recovered by it, or an amount equal to the credit payments received by it within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, whichever is the lesser amount.

§ 210.10 Liability of and acquittance to the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a recurring payment to the appropriate account of the recipient as required by this Part. Such liability shall be limited to the amount of such recurring payment. No financial organization or Federal Reserve Bank shall be liable under this Part to a recipient for the handling of a credit payment.

(b) The crediting of the amount of a credit payment to the appropriate account of a recipient on the books of the appropriate financial organization shall constitute a full acquittance to the United States for the amount of such payment.

Dated: April 9, 1975.

[SEAL] DAVID MOSSO,
Acting Fiscal Assistant Secretary.
[FR Doc. 75-2890 Filed 4-11-75; 9:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

[7 CFR Part 724]

FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 & 52) AND CIGAR-FILLER & BINDER (TYPES 42-44 & 53-55) TOBACCOS

Investigation of Farm Marketing Quotas

Pursuant to section 371 of the Agricultural Adjustment Act of 1938, as

amended (referred to hereinafter as the "Act"), an investigation is being made to determine whether the operation of farm marketing quotas in effect on fire-cured (type 21) tobacco, fire-cured (types 22-24) tobacco, dark air-cured (types 35 & 36) tobacco, Virginia sun-cured (type 37) tobacco, cigar-binder (type 51 & 52) tobacco and cigar-filler and binder (types 42-44 & 53-55) tobacco for the 1975-76 marketing year will cause the amounts of such kinds of tobacco which will be free of marketing restrictions to be less than the normal supply for such kinds of tobacco for such marketing year.

Section 371 of the Act provides, in part, as follows:

(a) If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto.

In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal to the normal supply. (7 U.S.C. 1371(a).)

The Act defines the "total supply" of tobacco for any marketing year as the carryover at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production in the United States during the calendar year in which such marketing year begins. (7 U.S.C. 1301(b).)

"Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined adjusted for current trends in such exports. (7 U.S.C. 1301(b).)

Marketing quotas were duly proclaimed for fire-cured (type 21) tobacco, fire-cured (types 22-24) tobacco, dark air-cured (types 35 & 36) tobacco, Virginia sun-cured (type 37) tobacco, cigar-binder (types 51 & 52) tobacco and cigar-filler and binder (types 42-44 & 53-55) tobacco for the 1975-76 marketing year, and the amounts of the national marketing quotas and national acreage allotments for the 1975-76 marketing years

were duly announced (40 FR 5135, 7619). Producers of each of such kinds of tobacco have approved marketing quotas for the 1975-76 marketing year (38 FR 9219, 39 FR 23985, 40 FR 14737).

The total supply of fire-cured (type 21) tobacco for the 1974-75 marketing year was determined to be 13.1 million pounds, composed of carryover of 7.1 million pounds and estimated production of 6.0 million pounds. The normal supply was determined to be 16.4 million pounds, based on a normal year's domestic consumption of 2.8 million pounds and a normal year's exports of 5.3 million pounds.

The total supply of fire-cured (types 22-24) tobacco for the 1974-75 marketing year was determined to be 73.4 million pounds, composed of carryover of 45.1 million pounds and estimated production of 28.3 million pounds. The normal supply was determined to be 80.4 million pounds, based on a normal year's domestic consumption of 15.0 million pounds and a normal year's exports of 23.7 million pounds.

The total supply of dark air-cured (types 35 & 36) tobacco for the 1974-75 marketing year was determined to be 49.0 million pounds, composed of carryover of 36.9 million pounds and estimated production of 12.1 million pounds. The normal supply was determined to be 49.4 million pounds, based on a normal year's domestic consumption of 16.4 million pounds and a normal year's exports of 2.6 million pounds.

The total supply of Virginia sun-cured (type 37) tobacco for the 1974-75 marketing year was determined to be 3,892 thousand pounds, composed of carryover of 2,974 thousand pounds and estimated production of 918 thousand pounds. The normal supply was determined to be 4,126 thousand pounds, based on a normal year's domestic consumption of 1,350 thousand pounds and a normal year's exports of 250 thousand pounds.

The total supply of cigar-binder (types 51 & 52) tobacco for the 1974-75 marketing year was determined to be 9.5 million pounds, composed of carryover of 7.0 million pounds and estimated production of 2.5 million pounds. The normal supply was determined to be 12.5 million pounds, based on a normal year's domestic consumption of 4.0 million pounds and a normal year's exports of 0.9 million pounds.

The total supply of cigar-filler and binder (types 42-44 & 53-55) tobacco for the 1974-75 marketing year was determined to be 62.6 million pounds, composed of carryover of 41.7 million pounds and estimated production of 20.9 million pounds. The normal supply was determined to be 68.2 million pounds, based on a normal year's domestic consumption of 24.7 million pounds and a normal year's exports of 2 million pounds.

Under present legislation the termination of marketing quotas for any marketing year would be limited in application and effect to that year only.

Under section 106 of the Agricultural Act of 1949, as amended, price support

will be available on the 1975 crop of fire-cured (type 21) tobacco, fire-cured (types 22-24) tobacco, dark air-cured (types 35 & 36) tobacco, Virginia sun-cured (type 37) tobacco, cigar-binder (types 51 & 52) tobacco and cigar-filler and binder (types 42-44 & 53-55) tobacco even if marketing quotas are terminated since producers did not disapprove marketing quotas. Further, as authorized by section 101 of such Act, price support will be made available on all of such kinds of tobacco produced during the 1975-76 marketing year if marketing quotas and acreage allotments are terminated. (7 U.S.C. 1445; 1441(d).)

Prior to making any determinations as to whether the national marketing quotas and acreage allotments for fire-cured (type 21) tobacco, fire-cured (types 22 & 23) tobacco, dark air-cured (types 35 & 36) tobacco, Virginia sun-cured (type 37) tobacco, cigar-binder (types 51 & 52) tobacco, or cigar-filler and binder (types 42-44 & 53-55) tobacco for the 1975-76 marketing year should be increased or terminated, consideration will be given to data, views and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 6763, South Building, 14th and Independence Avenue SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than April 30, 1975.

Signed at Washington, D.C. on April 8, 1975.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 75-9604 Filed 4-11-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 204]

SOCIAL AND REHABILITATION SERVICE PROJECT GRANT PROGRAMS

Grant Appeals

Notice is hereby given that the regulation set forth in tentative form below is proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation would specify that post award disputes arising under project grants awarded by the Social and Rehabilitation Service will be reviewed by the Service prior to submission to the Departmental Grant Appeals Board.

Prior to the adoption of the proposed regulation, consideration will be given to

any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013 on or before May 14, 1975. Comments received will be available for public inspection in Room 5326 of the Department's offices at 330 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

This proposal issued under the authority of sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and the individual authorities cited in the Appendix.

(Catalog of Federal Domestic Assistance Program No. 13.766, Public Assistance Research.)

Dated: February 4, 1975.

JAMES S. DWIGHT, Jr.,
Administrator, Social and
Rehabilitation Service.

Approved: April 8, 1975.

CASPAR W. WEINBERGER,
Secretary.

Part 204 of Chapter II, Title 45 of the Code of Federal Regulations would be amended by adding a new § 204.4 to read as follows:

§ 204.4 Grant appeals.

(a) *Scope.* This section applies to certain determinations (as set forth in § 16.5(a) (1)-(4) of this title), made after the effective date of this section, with respect to direct, discretionary project grants awarded by the Social and Rehabilitation Service, and such other grants or grant programs as the Administrator, with the approval of the Secretary, may designate. The statutory authority for current grant programs to which this section applies appears in the appendix to this section. This section is also applicable to determinations with respect to grants which were made under authority which has expired or been repealed since the grants were made, even though such authority does not appear in the appendix.

(b) *Submission.* (1) A grantee who has received notification, as described in § 16.5(b) of this title, of a determination described in § 16.5(a) (1)-(4) of this title, may inform the Grant Appeals Officer, Social and Rehabilitation Service, Washington, D.C. 20201 of the grantee's intent to contest the determination, and may request reconsideration. The grantee's request for reconsideration must be postmarked no later than 30 days after the postmark date of the written notification of such determination, except when:

- (i) The Grant Appeals Officer grants an extension of time for good cause; or
- (ii) The constituent agency fails to make a written notification under the circumstances described in the last sentence of § 16.5(b) of this title, in which case, subject to paragraph (b) (1) (i) of this section, the grantee's request

for reconsideration must be postmarked no later than 90 days after the postmark date of the grantee's request for permission to incur an expenditure.

(2) Although the request need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position with respect to such question or questions, and the pertinent facts and reasons in support of such position. Except in the case of a determination described in the last sentence of § 16.5(b) of this title, the grantee shall attach to his submission a copy of the agency notification described in § 16.5(b)(1) of this title.

(c) *Action by the Service on requests for reconsideration.* (1) Upon receipt of such an application the Grant Appeals Officer will inform the grantee that:

(i) His request is under review, and
(ii) If no decision is received within 90 days (or 45 days in the case of a determination described in the last sentence of § 16.5(b) of this title) of the postmark date of the grantee's request for reconsideration, the determination may be appealed to the Departmental Grant Appeals Board.

(2) The Grant Appeals Officer will reconsider the determination appealed from, considering any material submitted by the grantee and any other material necessary.

(3) If the response to the grantee is adverse to the grantee's position, the response will include notification of the grantee's right to appeal to the Departmental Grant Appeals Board.

APPENDIX

This section is issued under sections 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 F.R. 2053, 67 stat. 631 and is applicable to programs carried out under the following authorities:

- (1) Section 222(a) and (b) of the Social Security Amendments of 1972 (Pub. L. 92-603).
- (2) Section 426 of the Social Security Act (42 U.S.C. 262).
- (3) Section 707 of the Social Security Act (42 U.S.C. 907).
- (4) Section 1110 of the Social Security Act (42 U.S.C. 1310).
- (5) Section 1115 of the Social Security Act (42 U.S.C. 1315).

[FR Doc. 75-9656 Filed 4-11-75; 8:45 am]

Social Security Administration

[20 CFR Part 405]

[Regulations No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below, are proposed by the Commissioner of Social Security, with approval of the Secretary of Health, Education, and

Welfare. The amendments to the regulations are made pursuant to the economic index provisions of section 224(a) of the Social Security Amendments of 1972, Pub. L. 92-603, and the accompanying Report of the Committee on Finance, United States Senate. (Regulations dealing with other changes in reasonable charge reimbursement that were made by Pub. L. 92-603 will be issued separately.)

In connection with reasonable charge reimbursement, the proposed amendments provide that any recognition of a prevailing charge increase for a physician's services in a locality will be tied to an appropriate national economic index so that Medicare reimbursement will not recognize without limitation whatever increase in charges is established in a locality. Recognition of charge increases would be limited to rates that economic data indicate would be fair to all concerned and follow, rather than lead, any inflationary trends. In the case of physician services, the prevailing charge level may not exceed the level that was determined for the fiscal year ending June 30, 1973, for similar services in the same locality except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. The economic index will be used in determining the reasonableness of charges for physicians' services only, and will be applicable only to prevailing charges which have cumulatively increased above the limit established by the cumulative economic index. Individual physicians' charges will be directly affected by the economic index only in those cases where their charges for a service in a locality exceed the prevailing charge for that service which has been limited through application of the economic index.

The economic index will be based on information on changes in expenses of physicians' office practice and in general earnings levels. These factors will be combined in a manner consistent with data on the ratios of the expenses of practice occurring among self-employed physicians as a group and their net earnings to gross income from practice.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, comments, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before May 14, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in

sections 1102, 1833(a), 1842(b), and 1871 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302, 1395i(a), 1395u(b), and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: January 13, 1975.

J. B. CARDWELL,

Commissioner of Social Security.

Approved: March 31, 1975.

CASPAR W. WEINBERGER,

Secretary of Health,
Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are further amended as set forth below:

1. Paragraph (a) of § 405.502 is revised to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are rendered and charged for. The criteria for determining what charges are reasonable include:

(1) The customary charges for similar services generally made by the physician or other person furnishing such services.

(2) The prevailing charges in the locality for similar services.

(3) In the case of physicians' services, the prevailing charges for such services for fiscal year 1973 adjusted to reflect the cumulative economic index since calendar year 1971 but only if the charges so determined are not more than the prevailing charges determined under § 405.504(a)(2). The data used in determining the cumulative economic index should reflect changes in expenses of physicians' office practice and in general earnings levels.

(4) Other factors that may be found necessary and appropriate with respect to a specific item or service to use in judging whether the charge is inherently reasonable.

2. Paragraph (a) of § 405.504 is revised to read as follows:

§ 405.504 Determining prevailing charges.

(a) *Range of charges.* (1) In the case of claims received by carriers prior to January 1, 1971, the "prevailing charge" is derived from those charges which fall within the range of charges most frequently and most widely billed in a "locality" (see § 405.505) for a particular medical item or service. The top of this range establishes the prevailing charge which serves as an overall limitation on the charges which a carrier will accept as reasonable for a given medical item or service. (See § 405.506 for discussion of reasonable charges where there are unusual circumstances.) Prevailing charges are derived from the overall pattern existing within a locality. For example, if

in a given locality the charges most frequently and widely used by physicians for a particular medical item or service range from \$150 to \$175, those charges would be applied in determining the prevailing charge for the locality. If in another locality the charges for that same item or service are different, then that different range of charges would be applied in determining the prevailing charge for that locality.

(2) With respect to claims received by carriers on and after January 1, 1971, no charge may be determined to be reasonable if it exceeds the higher of: (i) The prevailing charge limit that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the calendar year preceding the start of the fiscal year in which the claim is submitted or the request for payment is made; or (ii) The prevailing charge limit for similar services in the same locality in effect on December 31, 1970, provided such prevailing charge limit had been found acceptable by the Secretary.

(3) (i) In the case of physicians' services, each prevailing charge level in each locality may not exceed the level determined for the fiscal year ending June 30, 1973, except on the basis of appropriate economic index data which demonstrate that such higher prevailing charge level is justified by: (A) Changes in general earnings levels of workers that are attributable to factors other than increases in their productivity; and (B) changes in expenses of the kind incurred by physicians in office practice. The office-expense component and the earnings component of such index shall be given the relative weights shown in data on self-employed physicians' gross incomes.

EXAMPLES. The available data indicate the office-expense and earnings components of the index should be given relative weights of 40 percent and 60 percent, respectively, and it is calculated that the aggregate increase in expenses of practice for a particular calendar year was 3 percent over the expenses of practice for calendar year 1971 and the increase in earnings (less increases in workers' productivity) was 5 percent over the earnings for calendar year 1971. The allowable increase in any prevailing charge that could be recognized during the next fiscal year would be 4.2 percent $((.40 \times 3) + (.60 \times 5) = 4.2)$ above the level recognized for fiscal year 1973.

(ii) If the increase in the prevailing charge in a locality for a particular medical item or service resulting from an aggregate increase in customary charges for that item or service does not exceed the index determined under paragraph (a) (3) (i) of this section, the increase is permitted and any portion of the allowable increase not used is carried forward in that prevailing charge in the future. However, if the increase in the prevailing charge exceeds the allowable percentage of increase, the increase will be reduced to the allowable percentage. Future increases will be justified only to the degree

that they do not exceed further rises in the economic index.

(iii) The allowance or reduction of an increase in a prevailing charge for any individual medical item or service in a locality will not affect the allowance or reduction of an increase in the prevailing charge for any other medical item or service in that or any other locality. When, for any reason, a prevailing charge for a service in a locality has no precise counterpart in the carrier's charge data for calendar year 1971 (the data on which the prevailing charge calculations for fiscal year 1973 were based), the limit on the prevailing charge shall be estimated, on the basis of data and methodology acceptable to the Secretary, to seek to produce the effect intended by the economic index criterion.

[FR Doc. 75-9505 Filed 4-11-75; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. FI-545]

[24 CFR Part 1917]

CITY OF DANIA, BROWARD COUNTY, FLORIDA

Proposed Flood Elevation Determinations

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Dania, Florida.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for land management in flood-prone areas. In order to participate in the National Flood Insurance Program, the City of Dania must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 2600 Hollywood Boulevard, Hollywood, Florida 33022.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Tony Reasons, City Manager, City Hall, 2600 Hollywood Boulevard, Hollywood, Florida 33022. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation (feet above mean sea level)	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)
Atlantic Ocean:		
Fort Lauderdale-Hollywood International Airport		8 Western half of airport within corporate limits.
U.S. Highway No. 1		8 From 200 ft south of corporate limits to 2,000 ft south of corporate limits.
Taylor Rd.	8	Entire road.
9th St. NW.	8	Do.
8th St. NW.	8	Do.
14th Ave. NW.	8	Do.
Broward Rd.	8	8 From corporate limits to 1,300 ft east of corporate limits.
10th Ave. NW.	8	8 From 600 ft north of 7th St. NW. to end of road (going south).
9th Ave. NW.	8	8 From 400 ft north of 7th St. NW. to end of road (going south).
8th Ave. NW.	8	8 From 275 ft north of 7th St. NW. to end of road (going south).
7th Ave. NW.	8	8 From 200 ft north of 7th St. NW. to end of road (going south).
6th Ave. NW.	8	8 From 150 ft north of 7th St. NW. to end of road (going south).
3d Ter. NW.	8	8 Begins 1,000 ft east of corporate limits and spans for 300 ft east.
3d St. NW.	8	8 Begins 1,000 ft east of corporate limits to and spans for 300 ft east.
2d St. NW.	8	8 From western corporate limits to 100 ft east of 8th Ave. NW.
1st St. NW.	8	8 From western corporate limits to 6th Ave. NW.
Dania Beach Blvd.	8	8 From western corporate limits to 100 ft east of 7th Ave. NW.
2d St. SW.	8	8 From western corporate limits to Philippine Rd.
8th Ave. NW.	8	8 Entire road.
7th Ave. NW.	8	8 From 100 ft south of 2d St. NW. to end of 7th Ave. NW.
3d St. NE.	8	8 Begins 350 ft east of Federal Highway 1 and spans 400 ft east.
2d Pl. NE.	8	8 Entire road.
2d St. NE.	8	8 From 300 ft east of Federal Highway to end of road (going east).
5th Ave. NE.	8	8 Entire road.
6th Ave. NE.	8	8 Do.
3d St. NE.	8	8 Do.
1st St. NE.	8	8 From 300 ft east of Federal Highway to end of road (going east).
Dania Beach Blvd.	8	8 From 300 ft east of Federal Highway to eastern corporate limits.
Park St. SE.	8	8 Entire road.
1st St. SE.	8	8 From 925 ft west of 3d Ave. SE. to end of road (going east).
2d St. SE.	8	8 Do.
2d Ave. SE.	8	8 Entire road.
3d Ter. SE.	8	8 From 250 ft west of 2d Ave. SE. to end of road (going east).
4th Pl. SE.	8	8 Do.
4th St. SE.	8	8 From 300 ft west of 2d Ave. SE. to end of road (going east).
4th Ter. SE.	8	8 From 350 ft west of 2d Ave. SE. to end of road (going east).
5th St. SE.	8	8 Do.
6th St. SE.	8	8 Do.
7th St. SE.	8	8 Do.
8th St. SE.	8	8 Entire road.
10th St. SE.	8	8 From 275 ft west of 2d Ave. SE. to end of road (going east).
11th St. SE.	8	8 Do.
12th St. SE.	8	8 Do.
13th St. SE.	8	8 Do.
14th St. SE.	8	8 Do.
15th St. SE.	8	8 Do.
Sheridan St.	8	8 Entire road.
2d Ave. SE.	8	8 Do.
3d Ave. SE.	8	8 Do.
5th Ave. SE.	8	8 Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: March 26, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc. 75-9532 Filed 4-11-75; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-546]

PORT ORANGE, VOLUSIA COUNTY,
FLORIDA

Proposed Flood Elevation Determinations

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Port Orange, Florida.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for land management in flood-prone areas. In order to participate in the National Flood Insurance Program, the City of Port Orange must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, Port Orange, Florida 32019.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Frank Zsoldos, Jr., P.O. Drawer 5, Port Orange, Florida 32019. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation (feet above mean sea level)	Width from shoreline or bank of stream (facing down stream) to 100-yr flood boundary (feet)
Halifax River:		
Coral Way.....	7	Entire street.
Ocean Ave.....	7	From 300 ft west of Ridgewood Ave. to 225 ft east of Ridgewood Ave.
Charles St.....	7	To 400 ft west of Ridgewood Ave.
Herbert St.....	7	To 200 ft west of Ridgewood Ave.
Church St.....	7	To 375 ft west of Ridgewood Ave.
Fox Pl.....	7	From 225 ft west of Ridgewood Ave. to 250 ft east of Ridgewood Ave.
White Pl.....	7	From 200 ft west of Ridgewood Ave. to 250 ft east of Ridgewood Ave.
Oak St.....	7	To 200 ft west of Ridgewood Ave.
Fleming Pl.....	7	Entire street.
Ridgewood Ave.....	7	Do.
Powers St.....	7	To 480 ft east of Canal View Blvd.
Oak St.....	7	From 225 ft west of Canal View Blvd. to 175 ft east of Canal View Blvd.
Canal View Blvd.....	7	Between Powers St. and Jackson St.
Taylor Rd.....	7	From 450 ft west of Wilkerson Rd. to 225 ft east of Wilkerson Rd.
Wilkerson Rd.....	7	From the intersection of Jackson St. to 350 ft south of Nova Rd.
Jackson St.....	7	To 425 ft west of Wilkerson Rd.
Commonwealth Blvd.....	7	To 630 ft east of Wilkerson Rd.
Nova Rd.....	7	From 200 ft northwest of Wilkerson Rd. to 1,175 ft southwest of Wilkerson Rd.
Florida East Coast Railroad.....	7	Between Commonwealth Blvd. and the southern corporate limits.
Bayview Lane.....	7	From 275 ft east of Wilkerson Rd. to end of Bayview Lane.
Greenbriar Ave.....	7	From 225 ft east of Wilkerson Rd. to end of Greenbriar Ave.
Millbrook Ave.....	7	From 275 ft east of Wilkerson Rd. to end of Millbrook Ave.
Imabelle Ave.....	7	To 125 ft south of corporate limits.
Rodgers Ave.....	7	To 225 ft south of corporate limits.
Halifax River and Spruce Creek:		
U.S. Highway 95.....	7	From southern corporate limits to 50 ft north of Spruce Creek.
Halifax River:		
Spruce Creek Rd.....	7	From 1,650 ft north of corporate limits to 2,150 ft north of corporate limits.
Route A1A.....	7	Entire road within corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: March 26, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc. 75-9531 Filed 4-11-75; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-544]

NAHANT, ESSEX COUNTY,
MASSACHUSETTS

Proposed Flood Elevation Determinations

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the Town of Nahant, Massachusetts.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for land management in flood-prone areas. In order to participate in the National Flood Insurance Program, the Town of Nahant must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, Nahant Road, Nahant, Massachusetts 01908.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Robert W. Steeves, Chairman, Board of Selectmen, Town Hall, Nahant Road, Nahant, Massachusetts 01908. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation (feet above mean sea level)	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)
Atlantic Ocean, Nahant Bay, Lynn Harbor, Nahant Harbor, Massachusetts Bay:		
Nahant Rd.....	11	From 150 ft east of Spring Rd. to 500 ft south of Little Nahant Rd.
Castle Rd.....	11	From intersection with Nahant Rd. to 250 ft north of Wendall Rd.
Fox Hill Rd.....	11	850 ft south of Castle Rd.
Spring Rd.....	11	50 ft south of Nahant Rd.
Flash Ave.....	11	From intersection with Spring Rd. to 300 ft east of Fox Hill Rd.
Willow Rd.....	11	From 75 ft west of intersection with Emerald Rd. to end of Willow Rd.
Do.....	11	From 175 ft northwest of Summer Rd. to 50 ft southeast of Furbush Rd.
Summer St.....	11	From 50 ft southwest of Willow Rd. to 50 ft northeast of Willow Rd.
Wharf St.....	11	Entire road.
Walton Rd.....	11	Do.
Furbush Ave.....	11	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: March 26, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc. 75-9533 Filed 4-11-75; 8:45 am]

[24 CFR Part 1917]

[Docket No. FI-543]

COTTAGE GROVE, WASHINGTON COUNTY,
MINNESOTA

Proposed Flood Elevation Determinations

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917 (§ 1917.4(a)), hereby gives notice of his proposed determinations of flood elevations for the City of Cottage Grove, Minnesota.

Under these Acts, the Administrator, to whom the Secretary has delegated his statutory authority, must develop criteria for land management in flood-prone areas. In order to participate in the National Flood Insurance Program, the City of Cottage Grove must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 7516 80th Street, Cottage Grove, Minnesota 55106.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Roger Peterson, City Hall, 7516 80th Street, Cottage Grove, Minnesota 55106. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding and location	Elevation (feet above mean sea level)	Width from shoreline or bank of stream (facing stream) to 100-yr flood boundary (feet)
Mississippi River:		
Gray Cloud Trail	697	From end of Gray Cloud Trail to 100 ft west of intersection with Dirt Rd.
Burlington Northern Railroad	696	Starts 750 ft southeast of sewage disposal and spans (going east) 400 ft.
Do.....	696	Starts 3,500 ft east of waste disposal ponds and spans (going east) 375 ft.
Moorea Lake Channel:		
Geneva Ave. South	698	From corporate limits to 425 ft south of corporate limits.
Gray Cloud Trail	697	From 1,500 ft north of intersection with Geneva Ave. south to intersection with Geneva Ave.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: March 26, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance
Administrator.

[FR Doc. 75-9530 Filed 4-11-75; 8:45 am]

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[46 CFR Part 12]

[CGD 72-204]

CERTIFICATION OF SEAMEN

Withdrawal of Proposed Firefighter
Endorsement

The purpose of this notice is to withdraw CGD 72-204 in which an amendment to the rules for the certification of seaman that appeared in the November 3, 1972 issue of the FEDERAL REGISTER (37 FR 23457), was proposed. That proposal would have added a "firefighter" endorsement on a Merchant Mariner's document of a holder who completed a training course in shipboard firefighting techniques accepted by the U.S. Maritime Administration.

Based on the information received during the comment period of the proposal and during international conferences on the subject, the Coast Guard determined that a concept differing from the one proposed would be needed. Instead of a voluntary program, a mandatory requirement for some ratings and licenses should be proposed. Since this concept would entail greater detail, the Coast Guard is consulting with industry regarding the standards for the firefighter endorsement.

In view of the foregoing, the Coast Guard has determined that rulemaking

action in the proposed amendment is not appropriate and that CGD 72-204 should be withdrawn. A new proposal on a firefighter endorsement will be published in the FEDERAL REGISTER in the future.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (37 FR 23457) on November 3, 1972, entitled "Certification of Seaman—Proposed Firefighter Endorsement," is hereby withdrawn.

W. M. BENKERT,
Rear Admiral, U.S. Coast
Guard, Chief, Office of Mer-
chant Marine Safety.

MARCH 27, 1975.

[FR Doc. 75-9550 Filed 4-11-75; 8:45 am]

[CGD 73-254]

[46 CFR Parts 32, 50, 52, 53, 54, 55, 58,
63]

MARINE ENGINEERING SYSTEMS AND
COMPONENTS

Change in Hearing Date

In the April 3, 1975 issue of the FEDERAL REGISTER (40 FR 14935), the Coast Guard proposed amendments to its regulations for certain marine engineering systems and components. In that notice, the public hearing date was set at April 30, 1975.

It has been brought to the Coast Guard's attention that this date conflicts with a National Symposium on Marine Transportation Management which is being held in Philadelphia. The Coast Guard has been asked to adjust its hearing date so that interested parties could attend both the Symposium and the public hearing.

In consideration of that request the Coast Guard hereby postpones the public hearing one week to May 7, 1975, in room 8334 at 9 a.m., Department of Transportation, NASSIF Building, 400 Seventh Street, SW, Washington, D.C.

Dated April 9, 1975.

J. V. CAPFREY,
Captain, U.S. Coast Guard,
Acting Chief, Office of Mer-
chant Marine Safety.

[FR Doc. 75-9649 Filed 4-11-75; 8:45 am]

ACTION

[45 CFR Part 1222]

PARTICIPATION OF PROGRAM
BENEFICIARIES

Notice of Proposed Rulemaking

Section 106 of the Domestic Volunteer Service Act of 1973 (87 Stat. 408) (the Act) requires the Director of ACTION to take all necessary steps to establish in regulations a continuing mechanism for the meaningful participation of program beneficiaries in the planning, developing and implementing of programs under Title I of the Act. Title I includes the following full-time volunteer programs:

VISTA (Part A), University Year in ACTION (UYA) (Part B), and ACTION Cooperative Volunteer program (ACV) and the Program for Local Services (PLS) (Part C). Section 106 requires that regulations can only be prescribed after the Director of ACTION has consulted with sponsoring agencies of volunteer programs, volunteers and the people served by such agencies, the program beneficiaries.

Notice is hereby given that the Director of ACTION proposes to amend Chapter XII of Title 45, Code of Federal Regulations to add a new Part 1222, which will provide regulations requiring the establishment for each project involving full-time volunteer programs under Title I of the Act of a continuing mechanism to assure the meaningful participation of program beneficiaries.

Inquiries may be addressed and comments and views concerning the proposed subpart may be submitted to ACTION, 806 Connecticut Avenue NW, Washington, D.C. 20525, Attention: Associate Director of Domestic and Anti-Poverty Operations. All comments received on or before May 16, 1975, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the aforementioned address.

Copies of these proposed regulations will also be made available to projects selected at random in each ACTION Region to be reviewed by sponsoring agencies, volunteers and representatives of persons served by such projects. Comments received from such organizations and persons will be treated in the same manner as comments received from the public as a result of the printing of these proposed regulations in the FEDERAL REGISTER.

It is therefore proposed to add a new Part 1222 to Chapter XII of Title 45 of the Code of Federal Regulations as follows:

PART 1222—PARTICIPATION OF PROGRAM BENEFICIARIES

Sec.

- 1222.1 Purpose.
- 1222.2 Applicability of this part.
- 1222.3 Policy.
- 1222.4 Advisory group's responsibilities.
- 1222.5 Advisory group expenses.
- 1222.6 Sponsors' reports.

AUTHORITY: Secs. 106 and 420 of Pub. L. 93-113, 87 Stat. 398 and 414.

§ 1222.1 Purpose.

This part prescribes rules for the establishment of a continuing mechanism for the meaningful participation of program beneficiaries in the planning, developing and implementing of individual projects in full-time volunteer programs under Title I of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113 (the Act). It implements section 106 of the Act.

§ 1222.2 Applicability of this part.

This part applies to all full-time volunteer programs under Title I of the Act, including grant programs. Among these programs are VISTA (Part A), University Year for ACTION (UYA) (Part B)

and the ACTION Cooperative Volunteer program (ACV) and the Program for Local Services (PLS) (Part C).

§ 1222.3 Policy.

Each project sponsor shall establish an advisory group for the project composed of program beneficiaries or their democratically chosen representatives prior to its submission of a request to ACTION for volunteers.

§ 1222.4 Advisory group's responsibilities.

The group shall have the following responsibilities:

(1) To the extent practical, to assist the sponsor in the initial planning of a new project. All continuation project applications must involve the group in project planning.

(2) To review and approve any project application before it is submitted to ACTION.

(3) To meet at periodic intervals, not less than once every four months, with sponsor's staff to review and offer comments concerning the development and implementation of the project, with particular attention to its meeting the needs of program beneficiaries. Such meetings may be requested by the beneficiaries or the sponsor.

(4) To submit written reports to accompany the sponsor's quarterly reports to the ACTION regional office.

§ 1222.5 Advisory group expenses.

As permitted by law, ACTION regional staff may pay for certain incidental out-of-pocket expenses incurred by the advisory group in connection with its responsibilities under § 1222.4.

§ 1222.6 Sponsors' reports.

The sponsor shall furnish the following evidence of the advisory group's participation:

(1) Each application for volunteers shall contain a statement describing how the advisory group has participated in the planning of the project and be signed by an authorized representative of the group. For continuation projects, it should describe how the group complied with its responsibilities under § 1222.3.

(2) In their quarterly reports to regional offices, sponsor shall include a short descriptive narrative showing the extent to which the advisory group has been involved in the continuing development and implementation of the project.

Issued in Washington, D.C., on April 10, 1975.

JOHN L. GANLEY,
Deputy Director, ACTION.

[FR Doc. 75-9771 Filed 4-11-75; 8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[41 CFR Ch. 9]

PROGRAM OPPORTUNITY NOTICES

Proposed Regulation for Submission, Evaluation and Selection of Proposals

This notice offers interested parties an opportunity to comment on a proposed regulation concerning the submission,

evaluation and selection of (i) contracting concept proposals offered in response to Program Opportunity Notices issued by ERDA to accelerate the demonstration of the technical feasibility and commercial application of all potentially beneficial nonnuclear energy sources and utilization technologies; and (ii) unsolicited proposals for such demonstrations. This regulation is promulgated pursuant to section 8(d) (1) of the Federal Nonnuclear Energy Research and Development Act of 1974, Public Law 93-577, 42 USC 5901-5915 and applies to all demonstrations carried out pursuant to the Solar Heating and Cooling Demonstration Act of 1974 (Pub. L. 93-490); the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Pub. L. 93-410); the Solar Energy Research, Development, and Demonstration Act of 1974 (Pub. L. 93-433); and the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577).

The proposed regulation would provide procedures for the carrying out of demonstration activities by procurement processes other than that involved in formal solicitation. These processes (Program Opportunity Notices and unsolicited proposals) would be available in addition to the formal solicitation process.

Generally, the proposed regulation establishes policy for the use of Program Opportunity Notices and for processing unsolicited proposals. It provides standards concerning the content of these Notices, as well as the information to be included in unsolicited proposals and proposals offered in response to such notices.

Examples of the forms of Federal assistance and participation available for carrying out demonstrations are also included in the regulation, as well as ERDA's policy on cost sharing.

The regulation, in addition, establishes procedures and criteria for the evaluation and selection of unsolicited proposals and for proposals offered in response to Program Opportunity Notices.

Interested persons should submit their comments concerning this proposed regulation to the Director of Procurement, C-167, Energy Research and Development Administration, Washington, D.C. 20545.

To be given consideration in the determination relative to final promulgation of the regulation covered by this notice, written submissions must be received no later than May 14, 1975.

Dated at Germantown, Maryland, this 7th day of April, 1975.

JOSEPH L. SMITH,
Director of Procurement.

The proposed regulation is as follows:

1. *Authority.* These regulations are promulgated pursuant to section 8(d) (1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577, 42 U.S.C. 5901-5915).

2. *Scope and Purpose.* (a) These regulations establish procedures for the submission, evaluation and selection of (i) competitive concept proposals offered in

response to Program Opportunity Notices issued by ERDA to accelerate the demonstration of the technical feasibility and commercial application of all potentially beneficial nonnuclear energy sources and utilization technologies; and (ii) unsolicited proposals for such demonstrations.

(b) These regulations apply to demonstrations conducted pursuant to the Solar Heating and Cooling Demonstration Act of 1974 (Pub. L. 93-409); the Geothermal Energy Research, Development, and Demonstration Act of 1974 (Pub. L. 93-410); the Solar Energy Research, Development, and Demonstration Act of 1974 (Pub. L. 93-433); and, the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577). ERDA policies and procedures concerning the use of formal solicited procurements for research, development and demonstrations are set forth in Subpart 9-1 through 9-3 of the ERDA Procurement Regulations. ERDA policies and procedures for the submission, evaluation and selection of unsolicited proposals from commercial and not-for-profit organizations for research and development work are set forth in Subpart 9-4.52 of the ERDA Procurement Regulations. ERDA policies and procedures applicable to the submission, evaluation and selection of research proposals from educational institutions and not-for-profit organizations are set forth in subpart 9-4.51 of the ERDA Procurement Regulations.

3. *Background.* The Federal Nonnuclear Energy Research and Development Act of 1974 states that it is the policy of the Congress to develop on an urgent basis the technological capabilities to support the broadest range of energy policy options through conservation and use of domestic resources by socially and environmentally acceptable means.

Accordingly, the Congress directed ERDA to establish and vigorously conduct a comprehensive, national program of basic and applied research and development, including but not limited to demonstrations of practical applications of all potentially beneficial nonnuclear energy sources and utilization technologies.

In carrying out the demonstration phase of this program the Administrator of ERDA is authorized to (a) identify opportunities to accelerate the commercial applications of new energy technologies, and to provide Federal assistance for, or participation in, demonstration projects; and (b) enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

4. *General.* (a) It is ERDA's policy, through the use of Program Opportunity Notices, to provide information concerning scientific and technological areas encompassed by ERDA's programs. It is our intent to encourage the submission of proposals to accelerate the demonstration of the technical, operational,

economic and commercial feasibility and environmental acceptability of particular energy technologies, systems, subsystems and components.

(b) ERDA shall, from time to time, issue Program Opportunity Notices for proposals for demonstrations of various forms of nonnuclear energy and technology utilization. These Notices shall be prepared by the cognizant Program Office and submitted to the Division of Procurement for concurrence and release. Each Notice shall include:

(i) The goal of the intended demonstration effort;

(ii) A time schedule for submission of, and action on, proposals;

(iii) Information, that may be required in addition to that specified in subparagraph (c) below;

(iv) Evaluation criteria, that may be used in addition to those specified in paragraph 6;

(v) Such other information, terms or conditions that shall apply to the particular Program Opportunity Notice; and

(vi) Place for, and manner of, submission.

(c) All proposals should be specific and, as a minimum, include the information set forth below.

(i) Name and address of the organization(s) submitting the proposal;

(ii) Date of preparation of submission;

(iii) Type of organization(s) (profit, non-profit, educational, other);

(iv) Concise title and abstract of the proposed demonstration project for which assistance or participation is being sought;

(v) An outline and discussion of the proposed demonstration which shall, if applicable and to the extent possible, include:

(A) Specification of the technology;

(B) Description of prior pilot plant operating experience with the technology;

(C) Preliminary design of the demonstration plant;

(D) Time tables containing proposed construction or fabrication and installation and operation plans;

(E) Budget-type estimates of construction or fabrication and operating costs;

(F) Description and proof of title to land for proposed site, natural resources, electricity and water supply and logistical information related to access to raw materials to construct and operate the plant and to dispose of salable products produced from the plant;

(G) Assessment of the environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) Plans for commercial use of the technology if the demonstration is successful;

(I) Plans for continued use of the plant if the demonstration is successful; and

(J) Plans for dismantling of the plant if the demonstration is unsuccessful or otherwise abandoned;

(K) Form and amount of assistance or participation being sought (See 5(A)).

(L) Form and amount of funding, or other contribution to be provided by the proposer.

(vi) Names of the key personnel to be involved, brief biographical information, including relevant experience;

(vii) A current financial statement;

(viii) Period for which proposal is valid;

(ix) Names and telephone numbers of proposer's primary business and technical personnel whom ERDA may contact during evaluation or negotiation;

(x) Each proposal containing technical data or proprietary or business confidential information, which the proposer intends to be used by ERDA for evaluation purposes only, should be marked on the cover sheet with the legend prescribed in paragraph 9-3.150-4 of the ERDA Procurement Regulations; and

(xi) Signature of an official of the proposing organization authorized to contractually obligate such organization.

5. *Assistance and Participation—(a) Forms of Assistance and Participation.* In providing for the carrying out of demonstrations under the Federal Nonnuclear Energy Research and Development Act, ERDA may utilize various forms of Federal assistance and participation.

These forms of assistance and participation include but are not limited to:

- (1) Contracts;
- (2) Grants;
- (3) Loans;
- (4) Incentives, including financial awards, to individual inventors;
- (5) Joint Federal-industry demonstration corporation; and
- (6) Federal purchase(s) or guaranteed price of the products of the demonstration project.

A Program Opportunity Notice may highlight a particular form(s) of assistance or participation deemed most suitable to a proposed demonstration; or, when justified, limit consideration or assistance or participation to a particular form(s).

(b) *Cost Sharing.* The provisions contained in Subpart 9-4.56 of the ERDA Procurement Regulations shall apply to proposals submitted hereunder, except as hereinafter provided.

When a proposal contemplates ERDA's direct financial support the resulting demonstration project must be conducted on a cost-shared basis. ERDA's financial support shall be only to the extent of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs. Payment of fees to the non-Federal cost sharer(s) is prohibited. The non-Federal cost share may be in any form, including, but not limited to, cash, real property or interests therein, personal property or services. The value of any non-monetary, non-Federal cost share shall be determined by ERDA.

6. *Evaluation and Selection—(a) General Policy.* Information contained in proposals offered in response to Program Opportunity Notices shall be treated in

accordance with the policies and procedures set forth in paragraph 9-3.150 of the ERDA Procurement Regulations.

(b) *Preliminary Review.* Prior to making a comprehensive evaluation of a proposal, the receiving office shall determine that it:

(i) Contains sufficient technical, cost and other information to enable comprehensive evaluation; and

(ii) Has been signed by a responsible official of the proposing organization or a person authorized to contractually obligate such organization.

If the proposal does not meet these requirements, a comprehensive evaluation need not be made. In such cases a prompt reply shall be sent to the proposer, indicating the reason(s) for its not being selected for support under the Program Opportunities Notice.

(c) *Comprehensive Evaluation.* When the estimated amount of the Federal investment that would be required to support a proposal(s) offered in response to a Program Opportunity Notice will necessitate specific legislative authorization by the Congress, comprehensive evaluation shall be conducted by a specially constituted board which shall follow such policies and procedures of the ERDA formal Source Evaluation Board process as may be appropriate under the circumstances.

When the estimated amount of the Federal investment will not necessitate specific legislative authorization, comprehensive evaluation shall be conducted by a panel, which shall be appointed by the cognizant Program Office, and shall include representation from the Division of Procurement.

Every proposal that is retained for comprehensive evaluation shall have attached or imprinted a legend identifying it as proposal, and stating that it may be used only for purposes of evaluation. In evaluating a proposal, the following factors shall be considered, in addition to any other criteria:

(i) The overall technical feasibility of the proposed effort;

(ii) The potential contribution which the proposed effort is expected to have, if supported at this time, on ERD's responsibility to carry out programs so as to assist in solving energy extraction and storage, transportation, conversion, conservation, and the energy utilization efficiency problems of various areas and regions, under representative geological, geographic and environmental conditions;

(iii) The capabilities, related experience, facilities, instrumentation, or techniques which the proposer possesses and offers, and which are considered to be integral factors for achieving the objective(s) of the proposal;

(iv) The qualifications, capabilities and experience of the proposed key personnel;

(v) The patent and data rights obtainable by the Government; and

(vi) The ability of the proposer to furnish necessary financial support.

(d) *Specific evaluation criteria.* In evaluating proposal for a potential

demonstration project, the following criteria shall be used:

(1) The anticipated objectives to be achieved by the activities or facilities proposed;

(2) The economic, environmental, and societal costs and benefits which a successful demonstration program may have for the national fuels and energy system;

(3) The availability of non-Federal participants to construct and operate the facilities or experiment or perform the activities associated with the proposal and to contribute to financing the proposal;

(4) The total estimated cost including the Federal investment and the probable time schedule;

(5) The proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants;

(6) The proposed cooperative arrangement agreements among the participants, and form of management of the activities;

(7) The relationship of the proposal to the following priorities:

(A) The urgency of public need for the potential results of the proposed demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance.

(B) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results.

(C) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance.

(D) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end-use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(E) The degree of risk of loss of investment inherent in the demonstration is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in this effort is inadequate for the timely development of the technology.

(F) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants.

7. *Unsolicited Proposals.* (a) Consistent with ERDA's policy set forth in Subpart 9-4.52 of the ERDA Procurement Regulations, when a received document otherwise qualifies as an unsolicited proposal under this Part, but its substance is generally known and may be obtained without restriction by formal competitive solicitation or Program Opportunity Notice, or its substance closely resembles that of a pending formal competitive solicitation or Program Opportunity Notice, ERDA's policy of obtaining competition applies.

(b) Unsolicited proposals for nonnuclear energy demonstration activities not covered by existing formal competitive solicitations or Program Opportunity Notices should be prepared in conformance with the requirements of paragraph 4(c); may request Federal assistance or participation pursuant to paragraph 5(A); and shall be subject to the cost sharing provisions of paragraph 5(B).

(c) Unsolicited proposals should be submitted to the cognizant Program Office (see Attachment A). When an unsolicited proposal is received initially by an ERDA field installation or non-cognizant Headquarters Office, it shall be forwarded to the cognizant Program Office. Information contained in unsolicited proposals shall be treated in accordance with the policies and procedures set forth in paragraph 9-3.150 of the ERDA Procurement Regulations. Unsolicited proposals shall be acknowledged as soon as possible after receipt, and the proposer shall be informed, in writing, of the ultimate disposition of the proposal.

(d) The cognizant Program Office shall appoint a panel, which shall include representation from the Division of Procurement, to evaluate each unsolicited proposal, and to recommend whether the proposal should be supported. Unsolicited proposals will be evaluated in accordance with the criteria set forth in paragraphs 6 (B) and (C).

(e) A favorable evaluation of an unsolicited proposal is not, in and of itself, sufficient justification for negotiating on a noncompetitive basis with the proposer. When an unsolicited proposal has received a favorable evaluation and it is determined that the substance thereof is not available to ERDA without restriction from another source, or competition is otherwise precluded, the subject matter of such proposal may be procured from the proposer on a noncompetitive basis. The Program Office sponsoring the procurement shall, prior to negotiating a contract or other agreement, make the findings and determination required to support a negotiated procurement (paragraph 9-3.301 of the ERDA Procurement Regulations).

ATTACHMENT A

I. OFFICE OF THE ASSISTANT ADMINISTRATOR FOR FOSSIL ENERGY

Division of Advanced Research and Supporting Technology, Dr. Alexander Mills, Acting Director, ERDA, Washington, D.C. 20545.

Division of Coal Conversion and Utilization, Dr. Raymond Zahradnik, Acting Director, ERDA, Washington, D.C. 20545.

Division of Petroleum, Natural Gas, and In Situ Technology, Mr. H. Neil Dunning, Acting Director, ERDA, Washington, D.C. 20545.

Proposals falling within the area of responsibility of the Office of the Assistant Administrator for Fossil Energy shall be forwarded to:

Mr. William Eckhard, Acting Director, Evaluation and Review Staff, ERDA, Washington, D.C. 20545.

II. OFFICE OF THE ASSISTANT ADMINISTRATOR FOR SOLAR, GEOTHERMAL, AND ADVANCED ENERGY SYSTEMS

Division of Physical Research, Daniel R. Miller, Director, ERDA, Washington, D.C. 20545.

Division of Controlled Thermonuclear Research, Robert L. Hirsch, Director, ERDA, Washington, D.C. 20545.

Division of Geothermal Energy, Dr. John M. Teem, Acting Director, ERDA, Washington, D.C. 20545.

Division of Solar Energy, Dr. John M. Teem, Acting Director, ERDA, Washington, D.C. 20545.

III. OFFICE OF THE ASSISTANT ADMINISTRATOR FOR CONSERVATION

Division of Energy Storage, Jack Vanderryn, Acting Director, ERDA, Washington, D.C. 20545.

Division of Improved Conversion Efficiency, Steven I. Freedman, Acting Director, ERDA, Washington, D.C. 20545.

Division of End Use Conservation Technology, Dr. James S. Kane, Acting Director, ERDA, Washington, D.C. 20545.

Division of Electric Power Transmission and Distribution, Francis F. Parry, Acting Director, ERDA, Washington, D.C. 20545.

Division of Advanced Automotive Power Systems, John J. Brogan, Acting Director, ERDA, 29 Plymouth Road, Ann Arbor, Michigan 48105.

[FR Doc. 75-9657 Filed 4-11-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 358-4]

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Change in Sulfur Content of Distillate Fuel

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR 51, the Administrator approved with exceptions the Massachusetts Implementation Plan for attainment of national ambient air quality standards. Included in that approval was Regulation 5.1.3 Sulfur Content of Fuels and Control Thereof, of the Regulations for the Control of Air Pollution in the six Massachusetts Air Pollution Control Districts which applies to No. 2 fuel oil burned within the Commonwealth of Massachusetts.

On July 31, 1974 the Massachusetts Department of Public Health submitted a revision to Regulation 5.1.3 which would allow the use of 0.5 percent sulfur by weight distillate fuel in lieu of 0.3 percent sulfur by weight distillate fuel from November 15, 1974 until April 15, 1975. This proposed amendment was originally included as part of the proposed compliance date extension to regulation 5.1.3 for the period November 15, 1973 to April 15, 1975 which was submitted by the Massachusetts Department of Public Health on November 5, 1973 after proper notice and public hearings. EPA approved in the FEDERAL REGISTER of December 11, 1973 (38 FR 34116) the original proposal only for the period No-

vember 15, 1973 to April 15, 1974 based on a demonstration of need.

The state has been investigating the possibility of relaxing the sulfur content in fuel requirements in order to make available more sulfur fuels, and to allow Massachusetts fuel users to purchase higher sulfur fuels which may be more readily available at certain times of the year. Although a preliminary air quality analysis conducted by the State indicates that there will be no significant increase in ambient air quality levels due to this change, the State would like to have an additional year of data before considering the possibility of a permanent change to the 0.5 percent distillate fuel regulation.

Copies of the Massachusetts submission are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts, 02203; the Commonwealth of Massachusetts, Department of Public Health, Division of Environmental Health, Bureau of Air Quality Control, Room 320, 600 Washington Street, Boston, Massachusetts, 02111; Board of Health Office, Pittsfield, Massachusetts; Central Massachusetts Air Pollution Control District, 75B Grove Street, Worcester, Massachusetts; Merrimack Valley Air Pollution Control District, Tewksbury State Hospital, Regional Health Office, Tewksbury, Massachusetts; Pioneer Valley Air Pollution Control District, 1414 State Street, Springfield, Massachusetts; Southeastern Massachusetts Air Pollution Control District, Southeast Regional Health Office, Lakeville State Hospital, Lakeville, Massachusetts; and the Freedom of Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

The Administrator hereby issues this notice setting forth the Massachusetts revisions which allows the use of 0.5 percent sulfur by weight from November 15, 1974 until April 15, 1975, as proposed rulemaking and advises the public that interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2113, Boston, Massachusetts 02203. Relevant comments received on or before May 14, 1975 will be considered. Receipt of comments will be acknowledged but substantive responses to individual comments will not be provided. Comments received will be available during normal working hours at the Region I office. The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of section 110(a)(2)(A)-(H) of the Clean Air Act and EPA regulations in 40 CFR part 51. All relevant matter presented shall be evaluated and the agency will incorporate in the rules adopted a concise general statement of their basis and purpose. Au-

thority: Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: April 7, 1975.

JOHN A. S. MCGLENNON,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 75-9685 Filed 4-11-75; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20413; RM 2416 etc.]

FM BROADCAST STATIONS IN CERTAIN STATES

Table of Assignments

In the Matter of amendment of § 73.202 (b), table of assignments, FM broadcast stations: (Ankeny, Iowa; Copperas Cove, Texas; Davis, California; Emmetsburg, Iowa; Frankfort, Michigan; Hiawatha, Kansas; Howell, Michigan; Jewett, Ohio; New Lexington, Ohio; Ottawa, Ohio; Selmer, Tennessee; Yoakum, Texas). (Docket No. 20413, RM-2416, RM-2470, RM-2505, RM-2510, RM-2492, RM-2511, RM-2496, RM-2508, RM-2486, RM-2504, RM-2509, RM-2483).

1. This notice of proposed rule making sets forth a number of proposals, each of which is for a first FM assignment. Each petitioner requests assignment of a Class A channel which would satisfy the spacing requirements. All petitioners except Christian Communications, Inc., state that they will apply for use of the channels and build promptly if the channels are assigned.

2. *Ankeny, Iowa (RM-2416)*. Christian Communications, Inc., requests assignment of Channel 292A to Ankeny as its first FM assignment. No changes in the existing assignments must be made. Ankeny, located north of Des Moines, has a population of 9,151 persons and is located in Polk County (pop. 286,130). The community presently receives no local aural service. Petitioner alleges economic data which demonstrates the need for an FM channel. All mileage separation requirements can be met if the transmitter site is located 2.5 miles southwest of Ankeny. Petitioner, however, should submit in his comments a preclusion study with respect to the proposed assignment because of the relative location of Ankeny to Des Moines, and indicate whether there are any other channels available for assignment to communities located within the precluded areas. Petitioner must also state his intention to promptly apply for Channel 292A if it is assigned, and, if authorized, to build the station.

3. *Copperas Cove, Texas (RM-2505)*. B. Rex Samford petitions for the assignment of Channel 276A to Copperas Cove, Texas, as its first FM assignment. Copperas Cove (pop. 10,818) located in Coryell County (pop. 35,311) is situated in the center of the state and adjacent to the Fort Hood Army base. The community and county are now without local

aural service. Petitioner presents evidence to show that the community can support an FM station and that adoption of the proposed assignment would be in the public interest. Petitioner's engineering study shows that all mileage separation requirements can be met without altering the existing Table of Assignments. No preclusion study is required.

4. *Davis, California (RM-2492)*. Richard C. Dorf and Bruce Horrigan request that Channel 288A be assigned to Davis, California. No other change in the Table of Assignments is necessary. Davis (pop. 23,488), in Yolo County (pop. 91,788) is approximately 14 miles west of Sacramento, California. The community presently is without local aural service. Sufficient data alleging Davis' need for an FM assignment have been adduced. All mileage separation requirements can be met if the transmitter site is located 4 miles west of the community. Petitioners have submitted technical data showing that the communities which lie within the preclusion area, occurring only on Channel 288A, either have existing local service or alternative potential channels. (Cloverdale, Colusa, Gridley, Healdsburg, Lakeport, Live Oak, Marysville and Yuba City.)

5. *Emmetsburg, Iowa (RM-2496)*. John Fallon Schadt, Jr. asks that Channel 252A be assigned to Emmetsburg, Iowa (pop. 4,153) the county seat of Palo Alto County (pop. 13,289). The community is located approximately 115 miles northwest of Des Moines, Iowa. Petitioner alleges that because neither Emmetsburg nor Palo Alto County receive local aural service and the area is a growing one, the public interest would be served by granting his proposal. The requested assignment is technically feasible, mileage separation requirements are met, no preclusion study need be submitted and no additional changes in the Table of Assignments are required.

6. *Frankfort, Michigan (RM-2486)*. Ivar T. Wedin petitions for the assignment of Channel 257A to Frankfort, Michigan (pop. 1,660), located in Benzie County (pop. 8,593). Frankfort is located on the northwest coast of the Lower Peninsula, approximately 25 miles north of Manistee and 30 miles west of Traverse City. The community is now without local aural service which, petitioner alleges, is necessary to provide needed weather and road conditions bulletins. All mileage separation requirements can be met and no additional Table alterations need be made.

7. *Hiawatha, Kansas (RM-2509)*. Petitioner Michael Carter, requests the assignment of Channel 280A to Hiawatha, Kansas, as its first FM assignment and local aural service source. Hiawatha (pop. 3,365) located near the state's northeast border is the seat of Brown County (pop. 11,685). Petitioner alleges that the assignment is needed in order to provide the community with necessary weather bulletins concerning personal and livestock safety as well as coverage of local sports events. No mileage separation difficulties are presented by the petition.

8. *Howell, Michigan (RM-2470)*. B & H Broadcasting Company, licensee of Howell's daytime-only Station WHMI (AM), requests the assignment of Channel 228A to that community so that Howell might receive its first full-time local aural service. Howell (pop. 5,224) the seat of Livingston County (pop. 58,987) is located west of Pontiac. Petitioner alleges that the community is a growing one which warrants a first FM assignment. The Canadian authorities have no technical objections to the proposed assignment. All Commission rules and policies will be met if the transmitter site is located 4 miles north of Howell.

9. *Jewett, Ohio (RM-2510)*. William A. Brackney asks that Channel 292A be assigned to Jewett, Ohio as its first FM assignment. Jewett (pop. 901), in Harrison County (pop. 17,013), is located in southeast Ohio. The assignment would provide this community and county, which petitioner alleges are growing ones, with their first local aural services. There appear to be no technical bars to adoption of this proposal.

10. *New Lexington, Ohio (RM-2511)*. William A. Brackney is also seeking the assignment of Channel 292A to New Lexington, Ohio. The community has a population of 4,921, is the seat of Perry County (pop. 27,434) and is located 75 miles southwest of Jewett. Petitioner alleges the existence of a sufficient economic base to justify the proposed assignment. Moreover, the assignment would provide first local aural service to the community and its surrounding areas. The proposal is in conformance with all Commission rules concerning preclusion and mileage separation. No additional changes to the FM Table of Assignments are required.

11. *Ottawa, Ohio (RM-2508)*. Triplett Broadcasting Co., Inc., requests assignment of Channel 292A to Ottawa as that community's first assignment. Ottawa (pop. 3,622), the seat of Putnam County (pop. 31,134) is located approximately 22 miles west of Findlay and 65 miles east of Fort Wayne, Indiana. Neither the community nor the county receives local aural service. Petitioner alleges sufficient economic data and need to justify the adoption of the proposal. No mileage separation or preclusion difficulties are raised by this petition. No additional changes in the Table of Assignments are necessary.

12. *Selmer, Tennessee (RM-2504)*. Petitioner, WDTM, Incorporated, licensee of Selmer daytime-only Station WDTM-AM, asks that Channel 288A be assigned to Selmer, Tennessee, as its first FM assignment. Selmer (pop. 3,495) is the seat of McNairy County (pop. 18,369). Mileage separation requirements can be met if the transmitter tower is located 5 miles northwest of the community. Petitioner states that "[t]here are adequate retail and wholesale business" to justify the assignment. We request that, in its comments, petitioner provide the factual bases supporting this conclusion. The assignment would provide the community and county with their first full-time local service.

13. *Yoakum, Texas (RM-2483)*. Lloyd E. Kolbe petitions for the assignment of Channel 272A to Yoakum, Texas, as its first FM assignment. Yoakum (pop. 5,755) is located in the southwestern portion of Lavaca County (pop. 17,903) and northeastern portion of DeWitt County (pop. 18,660). The community does not now receive local aural service. An economic base sufficient to maintain an FM station has been alleged. The proposal is technically feasible.

14. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows:

City	Channel No.	
	Present	Proposed
Davis, Calif.		288A
Ankeny, Iowa		252A
Emmetsburg, Iowa		252A
Hiawatha, Kans.		280A
Frankfort, Mich.		257A
Howell, Mich.		228A
Jewett, Ohio		292A
New Lexington, Ohio		292A
Ottawa, Ohio		292A
Selmer, Tenn.		288A
Copperas Cove, Tex.		276A
Yoakum, Tex.		272A

15. The Commission's authority to institute rule making proceedings; showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated herein.

16. Interested parties may file comments on or before May 27, 1975, and reply comments on or before June 16, 1975.

Adopted: March 31, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,

(SEAL) WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d) (1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, section 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal discussed in the notice of proposed rule making to which this appendix is attached. In initial comments, proponent will be expected to answer whatever questions are presented in the Notice. The proponents of the proposed assignments is expected to file comments even if they only resubmit or incorporate by reference their former pleadings. They should also restate their present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply

comments. They will not be considered, if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 75-9621 Filed 4-11-75; 8:45 am]

[47 CFR Part 73]

[Docket No. 20414; RM 2452 etc.]

FM BROADCAST STATIONS IN IOWA AND NEBRASKA

Table of Assignments

In the Matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Harlan and Red Oak, Iowa; Blair, Nebraska). Docket No. 20414, RM-2452, RM-2420, RM-2396.

1. *Petitioner, Proposal and Comments.* (a) Joint consideration of three mutually exclusive petitions for rule making.

(1) John W. Talbott requests assignment of Channel 292A to Harlan, Iowa. This proposal necessitates the substitution of Channel 272A for unoccupied and unapplied for Channel 292A at Onawa, Iowa. That substitution in turn requires the substitution of Channel 285A for unoccupied but applied for (by C & H Broadcasting Company, Inc., licensee of KCHE (AM) at Cherokee) Channel 272A at Cherokee, Iowa. The transmitter site location for the Harlan assignment must be north of the center of the commu-

nity. The Cherokee transmitter must be located 2 miles southwest of that community (RM-2452, filed September 20, 1974).

(2) Red Oak Broadcasting Co., Inc., licensee of Red Oak, Iowa's daytime-only AM Station KOAK, petitions for assignment of Channel 292A to Red Oak. In order to make that assignment, the unoccupied and unapplied for assignment of Channel 292A at Clarinda, Iowa, must be deleted. Petitioner offers no potential replacement channel. (RM-2396, filed June 7, 1974.)

(3) W.B.B.C. Enterprises requests that Channel 272A be assigned to Blair, Nebraska. In order that the separation requirements be met with respect to the adjacent Channel 274 (Lincoln, Nebraska Station KHKS), the Blair transmitter must be located 8.18 miles north of the community. No evidence has been submitted which considers the location question as it relates to the technical capacity to meet the principal community coverage requirement. (RM-2420, filed July 24, 1974.)

2. *Demographic Data.* (a) *Location.* (1) Harlan, Iowa, the seat of Shelby County, is located 42 miles northeast of Omaha, Nebraska. Onawa, Iowa, the seat of Monona County, is located 48 miles northwest of Harlan and 54 miles north of Omaha. Cherokee, Iowa, the seat of Cherokee County, is located approximately 110 miles north-northwest of Omaha, Nebraska, 77 miles from Harlan and 57 miles from Onawa.

(2) Red Oak, Iowa, the Montgomery County seat, is located 42.5 miles southeast of Omaha and 45 miles south of Harlan. Clarinda, Iowa, the Page County seat, is located 60 miles southeast of Omaha and 22 miles south-southeast of Red Oak.

(3) Blair, Nebraska, the seat of Washington County, is located 22 miles north-northwest of Omaha.

(b) *Population—1970 Census.* (1) Harlan—5,049; Shelby County—15,528; Onawa—3,154; Monona County—12,069; Cherokee—7,272; Cherokee County—17,269;

(2) Red Oak—6,210; Montgomery County—12,781; Clarinda—5,420; Page County—18,507;

(3) Blair—6,106; Washington County—13,310.

(c) *Present Local Broadcast Service:* (1) Neither Harlan nor Shelby County has local aural service. Onawa is assigned unoccupied Channel 292A, which is the only potential local aural service for Monona County. Cherokee receives local service from Station KCHE (AM) and is presently assigned unoccupied but applied for Channel 272A. KCHE is Cherokee County's only source of local aural service.

(2) Aural service to Red Oak and Montgomery County is furnished by AM daytime-only Station KOAK. Clarinda is assigned unoccupied and unapplied for Channel 292A. Page County's sole source of local service is Shenandoah AM Station KFKP.

(3) Neither Blair nor Washington County has local aural service.

(d) All petitioners have alleged data which indicate sufficient economic activity in the communities to justify assignment of an FM channel.

3. *Preclusion Considerations.* (a) Although it involves a first aural service and preclusion is not germane, we note that as to the Harlan proposal, only co-channel preclusion occurs. If Channel 292A were assigned to Harlan, the area that would be precluded is of limited size and contains only four communities with populations in excess of 1,000. However, the reassignment of Channel 292A from Onawa to Harlan will permit use of Channel 292A in a formerly precluded area. The same is true of the reassignment of Channel 272A from Cherokee to Onawa.

(b) The Red Oak and Blair proposals also present first FM services to the communities and preclusion studies are, therefore, not required.

4. *Additional Considerations.* (a) Channel 292A may not be assigned to both Red Oak and Harlan as the communities are only 45 miles apart. Further, since Red Oak now has an AM station, it would seem appropriate that Harlan receive a first FM assignment before Red Oak receives a second aural service. Moreover, in order to assign Channel 292A to Red Oak, that channel would have to be deleted at Clarinda, a community presently without local aural service. Proponent of the Red Oak proposal should submit information concerning a replacement channel at Clarinda.

(b) Channel 272A may not be assigned to both Blair and Onawa as the communities are separated by only 34 miles. It is doubtful whether Channel 272A may be assigned to Blair since the second adjacent channel separation requirement of 65 miles with respect to KHKS (Lincoln, Nebraska) would necessitate a transmitter site approximately 8.75 miles from the most distant boundary of the community. Meeting the principal community coverage requirements with a Class A station at such a distance might be difficult. Additional information on this issue is required.

(c) In order to decide which conflicting proposal to adopt, we request that proponents of each proposal submit a *Roanoke Rapids-Goldsboro, N.C.*, 9 F.C.C. 2d 672 (1967) study indicating the first and second FM service that its proposal would provide in terms of area and population.

(d) Opposition to the Harlan proposal to substitute Channel 285A for Channel 272A at Cherokee is voiced by the licensee of the AM station at Cherokee. This opposition is based on the fact that while Channel 272A is usable at the licensee's AM antenna site, Channel 285A is not. This would necessitate erecting a new tower at a different location. The Commission's own engineering analysis indicates that the unoccupied and unapplied for Channel 221A assignment at Spencer, Iowa, may be used at the Cherokee licensee's AM site (or the site specified in its application for Channel

272A) and Channel 285A may be substituted for Channel 221A at Spencer.¹

5. In light of the above, the Commission proposes the following alternative amendments to the FM Table of Assignments, § 73.202(b), with regard to the cities listed below:

City	Channel No.	
	Present	Proposed
Harlan, Iowa.....		292A
Onawa, Iowa.....	292A	272A
Cherokee, Iowa.....	272A	221A
Spencer, Iowa.....	221A	285A
on		
Red Oak, Iowa.....		202A
Clarinda, Iowa.....	202A	
Blair, Nebr.....		272A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference.

7. Interested parties may file comments on or before May 27, 1975, and reply comments on or before June 16, 1975.

Adopted: March 31, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b) (6) of the Commission's Rules, *It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this appendix is attached.*

2. *Showings required.* Comments are invited on the proposal discussed in the notice of proposed rule making to which this appendix is attached. In initial comments, proponents will be expected to answer whatever questions are presented in the notice. The proponents of the proposed assignments are expected to file comments even if they only resubmit or incorporate by reference their former pleadings. They should also restate their present intentions to apply for the channels if they are assigned, and, if authorized, to build the stations promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply com-

ments. They will not be considered, if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), and (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc.75-9622 Filed 4-11-75; 8:45 am]

[47 CFR—Part 76]

[Docket No. 20363]

MAJOR MARKET CABLE TELEVISION SYSTEMS

Extension of Time for Comments

In the matter of amendment of Part 76 of the Commission's rules and regulations relative to postponing or cancelling the March 31, 1977 date by which major market cable television systems existing prior to March 31, 1972, must be in compliance with section 76.251(a)(1)-(a)(8).

1. On March 14, 1975, the National Black Media Coalition and the Philadelphia Community Cable Coalition filed a "Petition for Reconsideration to Roll Back the Advancement of Deadline Date to File Comments" in the above-captioned proceeding. Essentially petitioners seek a reinstatement of the original due date for comments (April 7, 1975) "as a procedure in the best interest of the Commission's process and the convenience of the public." As a result of an order released March 6, 1975, the dates

for filing comments and replies in this proceeding were changed from April 7 and April 17, 1975, respectively, to March 17 and March 27, 1975.

2. The purpose of advancing the comment and reply dates was twofold. First, we were impressed with the plea of 11 multiple cable system operators and lending institutions that an expedited comment schedule was imperative in view of the present economic burdens placed upon the cable industry and the nearness, from a planning standpoint, of the March 31, 1977 channel capacity and access compliance date. Second, advancing the dates permitted us to emphasize further that the issues in this proceeding are very narrow, and that in the near future an additional notice having much broader scope will be initiated, in which interested parties will be invited to express their views concerning alternate substantive approaches for requiring compliance with our channel capacity and access requirements.

3. Petitioners have not persuaded us that we erred in our judgment that no more than a total of 29 days (February 26 to March 27) is required to file comments and replies in this proceeding. We are aware, however, based upon the petitioners' filing, that some uncertainty exists with respect to the nature of our inquiry. As previously stated, we specifically limited its scope, and did not intend to address "the entire question of policy development for cable systems" as petitioners aver. However, in the interest of avoiding further confusion and in furtherance of our desire to obtain the views of all interested parties, we shall grant the petitioners' request and restate our original filing deadlines. Those parties who have already filed comments in compliance with our March 6, 1975 order are of course free to supplement these filings. We reiterate that full opportunity to comment on substantive alternatives will be provided in connection with the additional notice described in paragraph 2 above, and that comments and replies in this proceeding should be limited to the amount of capital that typical cable systems of different sizes may require to meet our present rebuilding deadline and the availability of such capital in the marketplace.

Accordingly, it is ordered, That the subject petition for reconsideration is granted.

It is further ordered, That the dates for filing comments and replies in the above-captioned proceeding are extended to April 7 and April 17, 1975, respectively.

This action is taken by the Chief, Cable Television Bureau, pursuant to sections 1.106(a) and 0.288(a) of the Commission's rules.

Adopted: March 20, 1975.

Released: March 27, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-9624 Filed 4-11-75; 8:45 am]

¹ We note that John W. Talbott has filed a Petition to Deny the Cherokee AM station licensee's application for a construction permit (EPH-9328). The substitution at Cherokee with the Spencer, Iowa assignment may moot the issue raised in Talbott's Petition to Deny.

[47 CFR Part 76]

[Docket No. 20423; FCC 75-405]

TELEVISION BROADCAST STATIONS AND
CABLE SYSTEMS

Cross-Ownership Prohibition

In the matter of amendment of Part 76, Subpart J, of the Commission's rules and regulations relative to Cable Television Systems; and Postponement of Divestiture Requirement of section 76.501 relative to prohibited cross-ownership in existence on or before July 1, 1970.

1. Section 76.501 of the Commission's rules, *inter alia*, prohibits cross-ownership interests between television broadcast stations and cable television systems within the predicted Grade B contour of the station. Cross-ownership interests in existence on or before July 1, 1970, must be divested by August 10, 1975. Following a Commission invitation for the filing of requests for waiver of the divestiture requirement by parties believing they ought not properly be subject to such a requirement,¹ approximately 70 such waiver petitions were received. We are also in receipt of a petition filed September 19, 1974, by Gill Cable, Inc., *et al.*, urging, in view of changed economic and regulatory circumstances since the divestiture requirement was adopted, that we seek remand of the rule from the Ninth Circuit Court of Appeals, where appeal of the rule is pending² and explore possible change in the Rule.

2. Our extensive consideration of multiple ownership matters as reflected in the *Second Report and Order in Docket 18110*, FCC 75-104, — FCC 2d — (1975), compels the conclusion that additional examination of our present cross-ownership rule, as it relates to local station cross-ownership, is necessary to permit us to properly serve the public interest. To this end we have recently obtained from the Ninth Circuit Court of Appeals a remand of the Commission's rule making authority over section 76.501 in order to permit whatever modification may be appropriate. What we propose is to modify § 76.501(a) (2) to read:

(a) No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in:

(2) A television broadcast station whose predicted Grade A contour, computed in accordance with § 73.684 of this chapter, overlaps in whole or in part the service area of such system (i.e., the area within which the system is serving subscribers).

3. In addition to modifying the prospective cross-ownership rules, as stated above, we propose to require the divestiture of co-owned systems and stations

only where the sole station placing a city grade contour over the cable community is that of the cross-owned station. We are proposing this limitation based on the knowledge concerning multiple ownership we have acquired in our extensive and recently completed study of newspaper television combinations in Docket 18110, *supra*. We also seek comment on the applicability of causing divestiture where the sole city grade contour is that of a co-owned satellite, or where the only other television service providing a city grade contour is that of a satellite.³

4. In order to avoid confusion and financial hardship to persons with cross-ownership interests subject to the divestiture requirement, we propose to postpone the divestiture date pending the termination of this rulemaking proceeding. Because we do not contemplate any change in the cable television-national television network cross-ownership rules, any date suspension will not apply to those parts of § 76.501.

5. Authority for the proposed rule making instituted herein is contained in Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

6. All interested persons are invited to file written comments on the rule making proposals on or before May 19, 1975, and reply comments on or before May 30, 1975. In reaching a decision in this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this notice.

7. In accordance with the provisions of section 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its Headquarters in Washington, D.C. (1919 M Street, N.W.).

Adopted: April 2, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-9623 Filed 4-11-75; 8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141.1, 260.1]

[Docket No. RM75-20]

NON-UTILITY AFFILIATES

Extension of Time

APRIL 7, 1975.

In the matter of revisions of certain schedule pages of FPC annual report forms No. 1 and No. 2 to obtain additional information on non-utility affiliates.

* See footnote 35 in Docket 18810, *supra*.

On March 26, 1975, the American Gas Association and the Interstate Natural Gas Association of America filed motions to extend the date for filing comments in the above-designated matter noticed February 25, 1975 (40 FR 10196; Mar. 5, 1975).

Upon consideration, notice is hereby given that the date for filing comments in the above matter is extended to and including June 9, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-9647 Filed 4-11-75; 8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 217]

SUBCHAPTER A—BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM

[REG. Q]

INTEREST ON DEPOSITS

Notice of Maturity

The Board of Governors, pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) to prescribe rules governing the payment of interest on deposits, proposes to amend section 217.3(f) of Regulation Q to require member banks to notify owners of time deposits that, upon maturity, their time deposits will become demand deposits and no interest will be paid thereon. Member banks would also be required to notify owners of automatically renewable time deposits that their deposit will be renewed at maturity unless the owner gives the bank other instructions.

Section 217.3(f) of the Board's Regulation Q provides that, after the maturity date, a time deposit becomes a demand deposit and, reflecting the Federal Reserve Act's prohibition of interest on demand deposits, a member bank may not pay interest on a time deposit after maturity. The Board has received a number of letters from owners of time deposits describing circumstances in which they were not aware that their funds would not earn interest after the maturity date or that the maturity date had passed unnoticed.

Another problem which has been brought to the Board's attention involves time deposit contracts which provide for automatic renewal at maturity. Owners of such deposits have complained that, when they unintentionally neglected to advise the bank not to renew the deposit contract, the bank renewed the time deposit for another full term, usually at the same interest rate. If a depositor wished to withdraw his/her funds before the expiration of another full term, and the bank agreed to permit such withdrawal he/she would be subject to the interest penalty imposed on early withdrawals.

The proposed amendment, if adopted, would apply only to time deposits issued after the effective date of the amendment. The Board's proposal would require member banks to have printed or stamped on certificates, passbooks, or

¹ Memorandum Opinion and Order in Docket 18397, FCC 73-80, 39 FCC 2d 377 (1973).

² Gill Cable v. FCC, Case No. 73-1344, *et al.*

other documents representing time deposits, a conspicuous statement indicating that no interest will be paid on the deposit after the maturity date. In the case of automatically renewable time deposits, the printed notice would advise depositors that, absent contrary instructions, the deposit will be renewed at maturity and state the terms of the renewed deposit contract.

The Board is of the opinion that a statement printed on the certificate or passbook will serve as adequate notice to depositors. However, the Board welcomes comments on any alternative notification methods, including another suggestion which has been made; namely, to require member banks to mail a notice to a depositor's last known address on a date which would provide the depositor with sufficient opportunity to communicate his/her instructions to the bank.

If the proposed amendment to Regulation Q is adopted, these notice requirements would be mandatory for member banks. Upon further consideration, however, the Board may determine to promulgate a policy requiring printed notice and/or mail notice, as discussed herein, in the form of a published interpretation. The Board is aware that, at the present time, many member banks provide such notice on their own initiative as a service to depositors. The Board also solicits comments from the public as to whether continuation of this optional approach is a more appropriate means to ensure depositor awareness of impending maturity.

Finally, after review of all comments, the Board may also consider adopting regulations requiring notice to depositors pursuant to its new responsibilities pertaining to possible unfair and deceptive practices under the Federal Trade Commission Improvements Act (Pub. L. 93-637).

Interested persons are invited to submit their views or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 5, 1975. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), the Board of Governors proposes to amend § 217.3(f) of Regulation Q (12 CFR 217.3(f)) by adding the following to the end thereof:

Section 217.3(f) is amended as set forth below:

§ 217.3 Interest on time and savings deposits.

(f) On each certificate, passbook, or other document representing a time deposit, the bank shall have printed or stamped a conspicuous statement in-

dicating that no interest will be paid on the deposit after the maturity date or, in the case of a time deposit that is automatically renewable, a conspicuous statement indicating that the contract will be renewed automatically upon maturity, and indicating the terms of such renewal.

By order of the Board of Governors,
April 4, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 75-9597 Filed 4-11-75; 8:45 am]

[12 CFR Part 217]

[REG. Q]

INTEREST ON DEPOSITS

Interest Penalty on Withdrawal

The Board of Governors proposes to amend § 217.4(d) of Regulation Q (Interest on Deposits) to permit member banks to pay time deposits before maturity without imposing an interest penalty in cases where the owner of the time deposit has died. Section 19 of the Federal Reserve Act forbids the payment of interest on demand deposits and also forbids member banks from paying time deposits prior to maturity, except in accordance with such regulations as the Board prescribes. The previous emergency-plus-penalty rule and the current penalty rule were designed to enforce these provisions of the Federal Reserve Act by preserving the distinction between demand and time accounts and preventing time accounts from being utilized as essentially demand or transaction accounts. Since the proposed amendment would apply only in cases where the depositor has died, it is considered unlikely that the amendment will interfere with the Board's regulatory purpose.

The proposed amendment provides that the depositor must have been the sole legal and beneficial owner of the deposit at the time of his/her death. Thus, for example, the death of a trustee acting in that capacity as the depositor of uninvested trust funds, and holding legal title to those funds, would not fall within the proposed amendment. Similarly, the amendment would not apply where beneficial ownership is divided between the settlor and beneficiaries (e.g., an irrevocable express trust with a life estate in the settlor and vested remainder in the beneficiaries). However, the amendment would apply if the trustee is also the settlor of a revocable trust, "Totten" or tentative trust, payable-on-death or similar account, and as such retains sole legal and beneficial ownership of the funds at the time of his/her death. The amendment as proposed would not apply to jointly owned deposits where there is a surviving depositor or depositors who were parties to the deposit contract.

Interested persons are invited to submit their views or arguments. Any such

material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 5, 1975. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

Pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), the Board of Governors proposes to amend § 217.4(d) of Regulation Q (12 CFR 217.4(d)) as follows:

Section 217.4(d) is amended as set forth below:

§ 217.4 Payment of time deposits before maturity.

(d) *Penalty for early withdrawals.* Where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that current prescribed in § 217.7 for a savings deposit: *Provided*, That the depositor shall forfeit three months of interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited. Where necessary to comply with the requirements of this paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn. However, upon the death of an individual depositor who at the time of his death is the sole legal and beneficial owner of a time deposit, a member bank may pay such time deposit before maturity to the depositor's representative or successor in interest without a reduction or forfeiture of interest as prescribed by this paragraph. * * *

By order of the Board of Governors,
April 4, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 75-9598 Filed 4-11-75; 8:45 am]

[12 CFR Part 217]

[Reg. Q]

INTEREST ON DEPOSITS

Withdrawals From Savings Deposits

The Board of Governors has been asked to consider amendments to Regulation Q (Interest on Deposits) to permit member banks to offer their customers the privilege of withdrawing or transferring funds from savings deposits by means of withdrawal requests or authorization to the bank for periodic payments or transfers of principal or interest on any type of indebtedness of the depositor. The principal effect of the proposed amendment would be to allow member banks to provide a full range of bill payment services to their customers without regard to the nature of the depositor's indebtedness.

Since 1962, the Board's Regulation Q (§ 217.5(c)(2)(ii)) has permitted a depositor to direct that certain recurring

payments be made from a savings deposit, but these permissible withdrawal authorizations are limited to "the payment of installments of principal, interest, or other charges (including taxes or insurance premiums) due on a real estate loan or mortgage." The Board believes that this provision may be unnecessarily restrictive and that it may be desirable to permit depositors to make third party payment authorizations without regard to the nature of the indebtedness.

Under the proposed amendment, depositors could authorize member banks to withdraw funds from their savings deposits periodically, or otherwise, for the purpose of paying all or part of the depositor's indebtedness to a third party who may or may not maintain a deposit account at the depositor's bank. Such payments could be made by transfer to another account in the bank or by the bank drawing a check on itself and sending it to the creditor-payee or to another bank for the account of the creditor-payee.

Accordingly, the Board proposes, pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461) to define the terms used in that section to amend § 217.5(c) of Regulation Q to read as set forth below. Section 217.5 is amended by revising paragraphs (c) (1), (c) (1) (vii), and paragraphs (c) (2), (3), and (4).

§ 217.5 Withdrawal of savings deposits.

(c) *Manner of payment of savings deposits.* (1) Subject to the provisions of paragraph (c) (2) of this section, a member bank may permit withdrawals to be made from a savings deposit only through payment to the depositor (but not to any other person whether or not acting for the depositor) except:

(vii) Pursuant to nontransferable orders or authorizations to the bank for the payments of amounts in such accounts to third parties, periodically or otherwise. Any such order or authorization that may be honored as a withdrawal request for payment to a third party may, if so authorized by the third party, also be honored as a transfer to an account of such third party. Any form for such order or authorization shall contain language in boldface type of reasonable size to the effect that the order or authorization is not negotiable or transferable.

(2) Notwithstanding the provisions of paragraph (c) (1) of this section, no withdrawal shall be permitted by a member bank to be made from a savings deposit, through payment to the bank itself or through transfer of credit to a demand or other deposit account of the same depositor (other than of interest on

the savings deposit) if such payment or transfer is made pursuant to any advertised plan or any agreement, written or oral which authorizes such payments or transfers of credit to be made as a normal practice in order to cover checks or drafts drawn by the depositor upon the bank.

(3) The provisions of this paragraph do not apply to deposits subject to negotiable orders of withdrawal authorized by Federal law to be issued in the States of Massachusetts and New Hampshire.

(4) Where a savings deposit is evidenced by a passbook, every withdrawal made upon presentation of the passbook shall be entered in the passbook at the time of withdrawal, and every other withdrawal from such a deposit shall be entered in the passbook as soon as practicable after withdrawal is made.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 6, 1975. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rule regarding availability of information.

By order of the Board of Governors,
April 7, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.
[FR Doc. 75-9670 Filed 4-11-75; 8:45 am]

GENERAL ACCOUNTING OFFICE

[4 CFR Part 10]

INFORMATION REQUESTS BY REGULATORY AGENCIES

Clearance of Subpoenas

Notice is hereby given that the General Accounting Office has under consideration a proposal to amend section 10.6(c) of 4 CFR Part 10 concerning the exemption of subpoenas from clearance.

Effective July 2, 1974, the General Accounting Office adopted final regulations captioned 4 CFR, Part 10 (39 FR 24345) to implement the provisions of section 3512 of title 44, United States Code, added by Pub. L. 93-153, 409, 87 Stat. 593, concerning clearance of proposals by Independent Federal regulatory agencies to conduct or sponsor the collection of information.

Section 10.6(c) of these regulations list certain exemptions from the clearance procedures. Subpoenas were not specifically exempted from clearance. Rather, a subpoena would qualify for exemption only if it were to be used in connection with the type of particularized adversary investigation exempted under § 10.6(c) (5).

GAO now believes that all subpoenas should be exempted from clearance. The

Congress has given GAO responsibility for clearing the information requests of the independent regulatory agencies with a view to minimizing burden on respondents and avoiding unnecessary duplication of reporting requirements among Federal agencies. The independent regulatory agencies are to make a final determination as to the need for the information in carrying out their statutory responsibilities. We believe that subpoenas are not amenable to our clearance reviews either procedurally or in view of the stipulation that the agency finally determine its need for information. Therefore, as a practical matter, we believe GAO's review of subpoenas is unlikely to produce any meaningful benefits.

§ 10.6 [Amended]

If it is determined that subpoenas should be exempt from clearance, § 10.6 (c) will be amended by deleting "or" at the end of paragraph (6); changing the period at the end of paragraph (7) to a semicolon and adding "or" thereafter; and adding a new paragraph (8) to read:

"(8) Demands for information through the exercise of an agency's subpoena power."

Comments on the proposed amendment by interested parties should carry the control number B-180224 and should be submitted to the Comptroller General of the United States, Attention: Director, Office of Special Programs, 441 G Street NW., Washington, D.C. 20548. All comments received on or before May 14, 1975, will be considered. Comments and other written materials submitted will be available for public inspection in Room 5014, Chester Arthur Building, 425 I Street NW., Washington, D.C. 20548.

[SEAL] ELMER B. STAATS,
Comptroller General
of the United States.

[FR Doc. 75-9661 Filed 4-11-75; 8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

SPECIAL MAIL SERVICES

Lockbox and Caller Service Rentals

Correction

In FR Doc 75-9131 appearing at page 15909 in the issue of Tuesday, April 8, 1975, make the following corrections:

1. At page 15910, first column at 132 the first line of text should read, "a. Caller Service Does Not Include firm".

2. At page 15912, second column at 522 the first line, second word should read "Form".

3.(a) At page 15913, second column at .662c., the eighth line, sixth word should read "shall".

(b) The ninth line, third word should read "labels".

¹ Payment from a savings deposit or presentation of a passbook may be made over the counter, through the mails, or otherwise.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-5/32]

SHIPPING COORDINATING COMMITTEE

Subcommittee on Safety of Life at Sea

The working group on container operations of the U.S. Subcommittee on Safety of Life at Sea will hold an open meeting at 9:30 a.m. on Monday, May 5, 1975 in Room 8334 of the Department of Transportation, 400 7th Street, SW., Washington, D.C.

The purpose of this meeting will be to discuss the following three issues:

A. Item 5 of the agenda for the 16th Session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization, to be held in London, June 30, 1975. This agenda item reads, "International Convention for Safe Containers (CSC), 1972—(a) Status report; (b) Exchange of views with ECE on container standards for multimodal transport".

B. Item 7 of the agenda for the 16th session of the Economic Commission for Europe Inland Transport Committee Group of Rapporteurs on Container Transport to be held in Geneva on May 20, 1975. This agenda item reads, "Questions concerning implementation of the International Convention for Safe Containers (CSC) and related safety matters."

C. Such other business as may be appropriate.

Requests for further information on the meeting should be directed to Mr. M. H. Allen of the United States Coast Guard. He may be reached by telephone on (area code 202) 426-1577.

RICHARD K. BANK,

Chairman,

Shipping Coordinating Committee,

APRIL 7, 1975.

[FR Doc.75-9651 Filed 4-11-75; 8:45 am]

[CM-5/31]

STUDY GROUPS 10 AND 11 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet jointly on May 1, 1975, under the chairmanship of Mr. Harold L. Kassens. The meeting will convene at 10 a.m. in Room 8210, Federal Communications Commission, 205 M Street NW., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The agenda for the meeting is:

1. Approval of agenda;
2. Approval of minutes of February 6 meeting;
3. Reports on progress of work for:
 - a. 1977 World Administrative Radio Conference (12 GHz);
 - b. 1979 World General Administrative Radio Conference;
4. Reports on preparations for the 1976 meetings of the International Study Groups 10 and 11;
5. Any further business.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room.

Dated: March 31, 1975.

GORDON L. HUFFCUTT,

Chairman

U.S. CCIR National Committee.

[FR Doc.75-9600 Filed 4-11-75; 8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CHICKEN EGGS IN THE SHELL

Antidumping; Determination of Sales at Not Less Than Fair Value

On January 13, 1975, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" (40 FR 2455), that chicken eggs in the shell from Canada are not being, nor are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act").

The statement of reasons for tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

After consideration of all views and arguments, I hereby determine that, for the reasons stated in the tentative determination, chicken eggs in the shell from Canada are not being, nor are likely to be, sold at less than fair value (section 201(a) of the Act; U.S.C. 160(a)).

This determination is published pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) and section 153.33(b) Customs Regulations (19 CFR 153.33(b)), in accordance with requirements

promulgated prior to the Trade Act of 1974.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

APRIL 10, 1975.

[FR Doc.75-9743 Filed 4-11-75; 8:45 am]

[Public Debt Series—No. 12-75]

TREASURY NOTES OF SERIES H-1977

Invitation for Tenders

I. INVITATION FOR TENDERS

APRIL 10, 1975.

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for \$1,500,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series H-1977. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, April 15, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated April 30, 1975, and will bear interest from that date, payable semiannually on October 31, 1975, and thereafter on April 30 and October 31 in each year until the principal amount becomes payable. They will mature April 30, 1977, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry notes will be available to eligible bidders in

multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Tuesday, April 15, 1975. Each tender must state the face amount of notes bid for, which must be \$5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 6.45. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed \$500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcements will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest $\frac{1}{8}$ of one percent necessary to make the average

accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the \$1,500,000 of notes offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for \$500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before April 30, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by April 30, 1975, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Friday, April 25, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Wednesday, April 23, 1975, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,
Acting Secretary of the Treasury.

[FR Doc.75-9763 Filed 4-10-75; 3:15 pm]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 8, 1975.

The USAF Scientific Advisory Board ad hoc Committee on the Location, Identification, and Destruction of Surface Targets by Tactical Air Forces Under All-Weather Conditions will hold a meeting on May 5-6, 1975, from 9 a.m. to 5 p.m. each day at Headquarters, Air Force Systems Command, Andrews Air Force Base, Maryland.

The meeting will be closed to the public. The ad hoc committee will hear classified briefings on matters listed in 5 U.S.C. 552(b) (1), (4), and (5) from the Air Force Systems Command concerning current and planned research and development efforts to improve the capability of tactical air forces to be employed under adverse weather conditions.

For further information, contact the Scientific Advisory Board Secretariat on 202-697-8845.

JAMES E. DAGWELL,
Chief, Documentation Management Branch, Directorate of Administration.

[FR Doc.75-9595 Filed 4-11-75; 8:45 am]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on May 1-2, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9 a.m. and terminate at 5:30 p.m. daily.

The agenda will consist of matters which are classified in the interest of national security, including intelligence systems and applications, classified U.S. Navy R&D programs, and long-range Navy plans. The Secretary of the Navy has determined in writing that this meeting should be closed to the public because it will be concerned with matters listed in section 552(b)(1) of Title 5, United States Code.

Dated: April 8, 1975.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy,
Deputy Judge Advocate General.

[FR Doc.75-9558 Filed 4-11-75; 8:45 am]

**Office of the Secretary
DEFENSE SCIENCE BOARD**

Notice of Advisory Committee Meeting

The Defense Science Board will meet in closed session on 8-9 May 1975 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for 8 and 9 May 1975 to discuss interim findings and tentative recommendations resulting from on-going Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and Management issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
*Director, Correspondence and
Directives, OASD (Comptroller).*

APRIL 9, 1975.

[FR Doc.75-9580 Filed 4-11-75;8:45 am]

**DEFENSE SCIENCE BOARD TASK FORCE
ON GUN SYSTEM ACQUISITION**

Rescheduled Meeting

The Defense Science Board Task Force on Gun System Acquisition will meet in closed session 5 through 9 May 1975 at the Naval Underseas Center, San Diego, California.

The meeting of the Task Force originally scheduled for 14 through 18 April 1975, at the Pentagon, Arlington, Virginia, as published in the FEDERAL REGISTER of March 5, 1975 (40 FR 5780) has been cancelled.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The responsibility of the Task Force is to provide an independent review and assessment of the military/industrial capability to design, develop, manufacture, and field reliable gun systems and to identify the strengths and weaknesses in our current way of acquiring gun systems for the Services.

At this meeting, the Task Force will synthesize and assess data and prepare first drafts of the report.

In accordance with section 10(d) of Appendix I, Title 5, United States Code,

it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
*Director, Correspondence and
Directives OASD (Comptroller).*

APRIL 9, 1975.

[FR Doc.75-9581 Filed 4-11-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NM 25166)

NEW MEXICO

Notice of Application

APRIL 7, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

**NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO**

T. 22 S., R. 25 E.,
Sec. 23, NE¼SE¼;
Sec. 24, S¼NE¼, N¼SW¼ and NW¼SE¼.
T. 22 S., R. 26 E.,
Sec. 19, lots 2, 3, SE¼NW¼, NE¼SW¼,
N¼SE¼;
Sec. 20, NW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 28, SW¼NW¼;
Sec. 29, NW¼NE¼.

These pipelines will convey natural gas across 3,419 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands
and Minerals Operations.*

[FR Doc.75-9577 Filed 4-11-75;8:45 am]

National Park Service

GRAND TETON NATIONAL PARK

Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 970; 16 U.S.C. 20d) public notice is hereby given that on May 14, 1975, the Department of the Interior, through the Superintendent, Grand Teton National Park, proposes to issue a concession permit to The American Alpine Club, authorizing it to provide sleeping, cooking and equipment storage facilities and services for registered mountaineers at Grand Teton National Park for a period

of 5 years from January 1, 1975 through December 31, 1979.

A review of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment and that it is not a major federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality.

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted to the office of the Superintendent on or before May 14, 1975.

Interested parties should contact the Superintendent, Grand Teton National Park, Moose, Wyoming 83012, for information as to the requirements of the proposed permit.

RICHARD J. McMULLEN,
Acting Superintendent.

MARCH 5, 1975.

[FR Doc.75-9553 Filed 4-11-75;8:45 am]

Office of the Secretary

INDIAN RESERVATIONS

**Model Code for Administration of Justice
By Courts of Indian Offenses**

This notice is published pursuant to the directive of Title III of the Act of April 11, 1968, 82 Stat. 78, codified at 25 U.S.C. 1311, which requires that, after consultation with Indians, Indian tribes, and interested agencies of the United States, the Secretary of the Interior recommend to the Congress "a model code to govern the administration of justice by courts of Indian offenses on Indian reservations".

This notice is published in order that interested parties might have notice that the Secretary of the Interior proposes to recommend to Congress a model code for courts of Indian offenses. This is not rulemaking process, but is notice given merely to advise interested parties as to what is proposed to be recommended to Congress as required by 25 U.S.C. 1311.

The Bureau of Indian Affairs records indicate that courts of Indian offenses exist on some reservations in the following states: Arizona, Michigan, Minnesota, Montana, Nebraska, Nevada, South Dakota, Utah, Washington and Wyoming.

Therefore, in an effort to minimize the cost attendant to this project and at the same time avail ourselves, to the maximum degree possible, of the participation of those most directly involved, it has been determined to hold one-day hearings as follows: In the Minneapolis-St. Paul, Minnesota area on September 5,

1975 from 9 a.m.-5 p.m. in Judge Nordby's Court, 6th Floor, Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minnesota; and in the Phoenix area on September 9, 1975, from 9 a.m.-5 p.m. at the Arizona Biltmore Hotel, Missouri at 24th Street, Phoenix, Arizona.

In addition to these public hearings, comments are invited relative to the substance of this model code. Comments received prior to September 15, 1975 will be considered. Comments should be submitted to the Solicitor, Department of the Interior, Washington, D.C., 20240.

Tribes or other interested persons may contact the BIA local agency superintendents for more specific information concerning the substance of this model code.

It is intended that after assimilation of the product of the public hearings and written comments, this model code will be submitted to the Senate Committee on the Judiciary no later than October 1, 1975.

Section 1311 expressly refers to a code for procedure for trial of "offenses" and the legislative history of the Act indicates that Congress intended that the recommended code would apply to the courts of Indian offenses—i.e., those operated by the Secretary—and serve as a model for tribes in the drafting of their own codes. Accordingly, the proposed model code is a code of criminal procedure. No substantive civil or criminal code, code of civil procedure, or code of administrative practice will be proposed. The Senate Committee on the Judiciary (which is the Congressional committee which initiated this Act) will be advised of the fact that while the Act clearly requires only a criminal procedure code, only a few of the cases brought by Indians under the Act have been based on violations of rights in criminal matters—nearly all the decided cases have involved civil matters.

The proposed code and commentary follows.

KENT FRIEZZELL,
Solicitor,
Department of the Interior.

APRIL 8, 1975.

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INTRODUCTION

The following draft model code was prepared pursuant to Title III of the 1968 Civil Rights Act, 82 Stat. 73, 77-78. That title, as codified at 25 U.S.C. 1311, provides:

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

This model code which will be recommended to the Congress will serve two distinct purposes:

(1) As a suggested partial modification of the code of criminal procedure for the administration of justice in courts of Indian offenses as set out in 25 CFR 11; and (2) as a model for adaptation by Indian tribes for application as they see fit to tribal courts. This should not be construed as directly having any immediate effect on 25 CFR 11 or any legal effect on tribal courts.

The distinction between courts of Indian offenses and tribal courts was noted during the course of hearings on the 1968 Civil Rights Act and knowledge of that distinction is essential to an understanding of the scope and purpose of this model code. Tribal courts are those courts which are established and operated by Indian tribes in the exercise of residual sovereign authority. See *Iron Crow v. Oglala Sioux Tribe*, 231 F.2d 89

(8th Cir. 1956). Provisions relating to the creation of tribal courts are found in the various tribal constitutions.

Courts of Indian offenses, on the other hand, are those courts which have been established by the Secretary of the Interior and are operated pursuant to the provisions of 25 CFR 11. See *United States v. Clapox*, 35 Fed. 575 (D.C. Ore. 1888). Courts of Indian offenses are established where a tribe does not, for various reasons, exercise its authority. See 25 U.S.C. 11.1(b).

It should be noted here that even should this code be adopted there is provision in the present code of Federal regulations for modification of the code to meet the specific needs of a tribe where a court of Indian offenses is in operation. See 25 CFR 11.1(e) which provides:

Nothing in this section shall prevent the adoption by the tribal council of ordinances applicable to the individual tribe, and after such ordinances have been approved by the Secretary of the Interior they shall be controlling, and the regulations of this part which may be inconsistent therewith shall no longer be applicable to that tribe.

Preparation for drafting this model included a thorough academic research on the 1968 Civil Rights Act, including the case law dealing with it and the similarly worded United States Constitution's Bill of Rights. The distinctions between courts of Indian offenses and tribal courts and their jurisdictional bases were examined. The extent to which practices and procedures in Indian courts differ from that of the non-Indian courts and the extent to which tribal resources and expertise permit adoption of technical legal structures were taken into account.

As further preparation, all available codes and constitutions of the tribes were collected and analyzed; field trips were taken to approximately 17 different reservations where the nature of the project was explained to tribal officials and other tribal members, and their advice sought; and contacts were established with many national Indian organizations, tribal attorneys, professors of Indian law, and other interested individuals. In the summer of 1973, through the efforts of four Indian law students, a field study was conducted on the practices in Indian courts, the resources of the tribes, and the problems in law enforcement that most concern the tribes today. This effort reached some 28 reservations and pueblos in a four-state area.

Despite the differences in court practices, resources, and personnel that were perceived by the field workers, and the differences articulated by tribal officials as to their needs for guidance, an overriding conclusion was drawn from the study. Insofar as the subject-matter area of criminal procedure can be reduced to several critical points in terms of the requirements of the Indian Bill of Rights, a common need exists for the definition of standards for court and police practices.

It is very important to note, however, that while the restrictions imposed by the

Act apply equally to all tribal governments, the practices which each tribe may adopt and define for itself in its code in order to comply with these requirements do not necessarily have to be identical. There are numerous ways in which a court may conduct an arraignment, initial hearing or trial, for example, and still comply with the Act. The manner in which tribal courts go about these processes may vary considerably as long as the essential guarantees required by the Indian Bill of Rights are observed. The commentary following each provision of the code provides guidance in this respect. Title III of the 1968 Civil Rights Act (25 U.S.C. 1311) requires that the model code make provision for qualifications and requirements for training of judges of courts of Indian offenses. Accordingly, a skeletal provision dealing with these areas is included. The commentary following this provision discusses the difficulties involved in establishing any uniform qualifications for judges and some of the alternatives open to the tribes and the Bureau of Indian Affairs with regard to judicial training programs.

Finally this code does not deal with court organization or structure or substantive definition of offenses. While some of the present Code of Federal Regulations provisions on these subjects are outmoded and in need of change, the revision of these provisions is beyond the scope of this code. Reorganization of the courts or restructuring of their relationship to tribal governments or revision of the substantive portion of the Code of Federal Regulations is not required by the Indian Bill of Rights. It was thus concluded in the early phases of this project that no suggestions would be offered in these areas since to do so would exceed the statutory authority.

DRAFT MODEL CODE PROVISIONS AND COMMENTARY

SECTION 101. Complaint. (a) All criminal prosecutions for violation of the tribal law and order code shall be initiated by complaint. A complaint is a written statement sworn to by the complaining witness and charging that a named individual(s) has committed a particular criminal offense.

(b) Complaints shall contain:

(1) The signature of the complaining witness sworn to before a tribal judge or an individual designated by the Chief Judge; and

(2) A written statement by the complaining witness describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained; and

(3) The name or description of the person alleged to have committed the offense; and

(4) The section of the tribal code allegedly violated.

(c) The Chief Judge of the tribal court may designate an individual or individuals who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency.

Complaints shall then be submitted without unnecessary delay to the tribal judge to determine whether a warrant or summons should be issued.

(d) If the complaint, or the complaint together with other sworn statements, is sufficient to establish probable cause to believe that a crime has been committed by the person charged, the court shall issue a warrant pursuant to Section 103 of this code instructing the tribal police to arrest the named accused or, in lieu thereof, the court shall issue a summons commanding the accused to appear before the court at a specified time and place to answer to the charge.

(e) When an accused has been arrested without a warrant, a complaint shall be filed forthwith with the court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

COMMENTARY

A written complaint is essentially a procedural mechanism for initiating a criminal prosecution. It is not specifically required by the Indian Bill of Rights but it serves as a means to aid in effectuating that which is required—that "seizures" be reasonable and that no arrest warrant be issued without probable cause "supported by oath or affirmation." (See explanation of "probable cause" in Commentary following Section 105 of this code). Therefore the written complaint, whether it is filed by a police officer or by a private citizen, functions in a dual capacity: It provides a written record of the essential facts, including identity of the complaining witness and the defendant, the nature of the offense, and surrounding circumstances; and in most cases it will probably also provide on its face the necessary information to support probable cause for an arrest warrant. In certain circumstances, however, it may be necessary to supplement the information contained in a complaint with statements from other witnesses. If this occurs then subsection (d) above allows for it by providing that the complaint and other "sworn statements" may be used to establish probable cause to believe that an offense has been committed and that the accused committed it.

Subsection (c) above provides that complaints may be screened initially by some individual or individuals designated by the Tribal Chief Judge prior to presentation to him. As experienced judges will attest, some complaints are simply fabrications intended to inconvenience the named suspect or as a means of personal revenge. Others might be based on honest but mistaken information, or on a misunderstanding of tribal laws. Thus this screening process is an important step in order to eliminate those complaints which should not be acted on and process those which should.

Reports were received, through a study of selected tribal criminal justice systems, that some judges would prefer not

to be involved at all in the process of issuing warrants. They felt that getting involved at this point might affect their objectivity and impartiality when it comes time to try the case. On the other hand, some judges apparently have no reluctance to participate in the actual screening of complaints, thus functioning much as a prosecutor does in the Anglo system. In any case, it is clearly the duty of the tribal court to oversee all stages of the arrest process, including the role of criminal complaints in that process. In this provision we have suggested a middle ground between the two extremes of the judge doing everything or nothing. The judge must make the ultimate decision as to whether to issue an arrest warrant or not, but the initial screening of complaints for sufficiency may be done by other individuals designated by the Chief Judge. This may be the clerk of the court, an Associate Judge or any other qualified person, or the Chief Judge may choose not to select anyone but rather do it all himself.

There is in some tribal codes a provision imposing a fee when a person files and then withdraws a complaint before prosecution. (See especially the Hopi and Colville Tribal Codes). Such a provision is not included in this section largely because it would be unnecessary if complaints are properly screened before being accepted for filing. But there is nothing improper or illegal about this, especially where a tribal court has found that the complaint system is abused by people with frivolous gripes. It is suggested that if a tribal council considers adoption of such a provision (or if it already has one in its code) then it give some thought to distinguishing the frivolous complaint from that which is withdrawn because an honest mistake is discovered or other excusable reason. In the latter case the code should provide that the fee could be waived by the court as a matter of discretion.

SEC. 102. Arrest. (a) Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

(b) No tribal law enforcement officer shall arrest any person for a criminal offense set out in the tribal law and order code except when:

(1) The officer shall have a warrant signed by a tribal judge commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued; or

(2) The offense shall occur in the presence of the arresting officer; or

(3) The officer shall have probable cause to believe that the person to be arrested has committed an offense.

SEC. 103. Arrest warrants. (a) Every judge of the tribal court shall have authority to issue warrants to arrest and such warrants shall be issued only upon a showing of probable cause in sworn written statements. The tribal judge shall deny the issuance of a warrant if he finds that there is not probable cause to believe that the offense charged has been committed by the named accused.

(b) The arrest warrant shall contain the following information:

- (1) Name or description and address, if known, of the person to be arrested.
- (2) Date of issuance of the warrant.
- (3) Description of the offense charged.
- (4) Signature of the issuing judge.

Sec. 104. *Notification of rights at time of arrest.* Upon arrest the suspect shall be advised of the following rights:

- (1) That he has the right to remain silent.
- (2) That any statements made by him may be used against him in court.
- (3) That he has the right to obtain counsel at his own expense.

Sec. 105. *Summons in lieu of warrant.* (a) When otherwise authorized to arrest a suspect a tribal police officer or a judge may, in lieu of a warrant, issue a summons commanding the accused to appear before the tribal court at a stated time and place and answer to the charge.

(b) The summons shall contain the same information as a warrant, except that it may be signed by a police officer.

(c) If a defendant fails to appear in response to a summons a warrant for his arrest shall be issued.

COMMENTARY

The Indian Bill of Rights provides that no tribe shall "violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized." (25 U.S.C. 1302(2)). It also states that a person has the right "to be informed of the nature and cause of" any criminal accusation made against him (25 U.S.C. 1302(6)), and it prohibits deprivation by a tribal government of the liberty of any person without "due process of law." (25 U.S.C. 1302(8)).

Taken together these provisions are intended to protect the individual against the arbitrary and unrestrained exercise of a tribal government's power to restrict the personal liberty of a person through the criminal process. The heart of this protection with regard to arrest procedures is found in subsection (b) of section 102 above, where the authority of the police officer to legally make an arrest is limited to three specific situations: When he has a warrant; when an offense is committed in his presence; and when he has probable cause to believe an offense has been committed. Definition of these situations necessarily involved judgments on what is "reasonable" under the Indian Bill of Rights as well as what is workable in the tribal setting. In those cases where there are included provisions which go beyond basic requisites they are identified as recommendations only.

Generally the police may not make an arrest without a warrant signed by a tribal judge and describing the offense charged and identifying the offender. In turn, the warrant itself may not be issued under section 103 above except upon

a showing of "probable cause" supported by written sworn statements in the form of a complaint and any other statements which may be necessary. Although the Indian Bill of Rights does not specifically demand that such statements be written, they must be in writing in the federal system and it is recommended that tribal codes have a like requirement, if for no other purpose than as a record-keeping device and as a means to justify an arrest if any question should arise subsequently.

Probable cause is more than a mere suspicion or hunch. It is facts and circumstances which justify a man of prudence and caution in believing that an offense has occurred and that the person charged committed it. Of course, a judge must exercise his own judgment in the matter and if he determines that the complaint is false or is based on untrustworthy evidence or relates to an activity which does not violate the tribal code, then he has a duty to refuse to authorize an arrest warrant.

Certainly where at all feasible the police should seek a warrant before making any arrest. This not only provides the maximum protection to the individual against ill-founded arrests by the police but it also affords maximum protection to the police against possible charges of false arrest and harassment. Obviously though, there are circumstances when a warrant cannot be obtained prior to arrest and the power of the police to make "reasonable" arrests in those circumstances has traditionally been recognized.

The most obvious instance in which the police officer may arrest without a warrant is when an offense is committed or attempted in his presence. This is merely a common sense recognition of the police's essential duty to maintain peace and order in the community. An extension of this basic power is the authority to make a warrantless arrest for an offense not committed in the presence of the police officer but which he has probable cause to believe has been committed. In the federal system and in most states this latter power is limited to arrest for felonies only (defined by federal statute as crimes for which the maximum authorized penalty exceeds one year in prison). However, a few states allow arrest for any offense, be it felony or misdemeanor, when the officer has probable cause to believe that the suspect committed it, even if not in his presence. This is the approach taken in the Code of Federal Regulations (25 CFR 11.15) and it also is the approach taken in the overwhelming majority of tribal codes which were surveyed. The fact that it does not comport with the federal approach does not necessarily make it violative of the Indian Bill of Rights, especially if the felony-misdemeanor distinction is viewed as being inapplicable to Indian courts.

The standard used by the police officer for determining probable cause to make a warrantless arrest is essentially the same standard which a tribal judge

must use in deciding to issue an arrest warrant. It cannot be a mere suspicion; and it must be based on what a reasonable man would believe (see discussion above). If, for example, a person known to be unreliable tells the police officer that A just robbed B and the police officer can find no other trustworthy evidence to support the contention, then, on the basis of the unreliable witness's statement alone, probable cause does not exist to arrest A. If, however, B who is a trusted member of the community confirms that he was indeed robbed and that he recognized A as being the robber, then clearly probable cause to arrest A would exist.

It should be noted here, however, that there may arise the situation on some reservations where a particular police officer ignores the code preference for judicial warrants and consistently arrests individuals without a warrant even though he has ample opportunity to secure one. In such circumstances the tribal judge should have authority recognized in a code provision to discourage the practice. This may be done by tribes enacting code provisions providing for some type of disciplinary or compensatory measures as discussed in the Commentary following section 110 (see page 32). In addition, the court could order suppression of evidence obtained as a result of an arrest, as discussed on page 22 of this Commentary in connection with failure to advise an accused of his rights.

Subsection (4) of the Indian Bill of Rights (25 U.S.C. 1302(4)) provides that a tribal government shall not "compel any person in any criminal case to be a witness against himself" and subsection (6) provides that a tribe shall not deny to any person in a criminal proceeding the right to have the assistance of counsel at his own expense. (25 U.S.C. 1302(6)). Both provisions are intended to insure that any incriminating statement or confession which may be given by an accused is done so voluntarily. Some tribal codes presently contain provisions similar to these and it is a common practice of the tribal police to routinely give "warnings" of rights when making an arrest. Consequently the requirements of section 104 of this code, constituting a simplified warning procedure, should comply with the dictates of the Indian Bill of Rights but not impose new and unfamiliar burdens on tribal law enforcement personnel.

In the federal system, if a warning of his rights is not given to and understood by an accused then any statement made by him is inadmissible as evidence at trial (exclusionary rule). Such a rigid rule is probably not imposed on the tribes by the Indian Bill of Rights. However, clearly tribal courts must take some measures to assure that the principle of voluntariness is observed before a confession or other incriminating statement may be used by the police against an accused. This means that if the judge determines that there was some form of coercion then no portion of an incriminating statement may be introduced at

trial. And besides the obvious case of physical threats, a judge may find that coercion was used when the accused confessed after an unreasonable period of detention without being charged; or when he was denied the right to have an attorney present after he had requested one; or when he was not advised of his right to counsel before undergoing interrogation; or when other mental or physical intimidation was employed to induce the confession. (See Commentary following section 123 for discussion of the various proceedings which tribes may use for consideration of questions of illegally obtained confessions.)

The provision for use of a summons in section 105 is not a requirement of the Indian Bill of Rights. Rather it is an optional feature which should be considered as a suggested alternative to the more formal arrest procedure. Several of the existing tribal codes studied have incorporated a summons procedure notably, the Ft. Belknap and Colville Codes) and reports from our field study indicate that the practice has been well received generally. For those tribes which have no summons procedure in their codes adoption of this provision or something similar is recommended. The summons device is particularly well suited to Indian communities where the police and judges alike personally know virtually everyone. It avoids the stigma of an arrest, it is less expensive since it requires fewer police officers, and it helps prevent overcrowding of limited detention facilities with minor offenders awaiting trial.

Sec. 106. Search warrant-defined. A search warrant is a written order, signed by a tribal judge, and directed to a tribal law enforcement officer ordering him to conduct a search and seize items or property specified in the warrant. A warrant shall describe the property or place to be searched and shall describe the items to be seized.

Sec. 107. Issuance of search warrant. (a) Every tribal judge shall have the power to issue warrants for the search and seizure of property and premises of any person under the jurisdiction of the court.

(b) No warrant of search and seizure shall be issued except upon probable cause that a search will discover: Stolen, embezzled, contraband or otherwise criminally possessed property; property which has been or is being used to commit a criminal offense; or property which constitute evidence of the commission of a criminal offense. Such probable cause shall be supported by a written and sworn statement based upon reliable information.

Sec. 108. Execution and return of search warrant. Warrants of search and seizure shall only be executed by tribal law enforcement officers. The executing officer shall return the warrant to the tribal court within the time limit shown on the face of the warrant, which in no case shall be longer than 10 days from the date of issuance. Warrants not returned within such time limits shall be void.

Sec. 109. Search without a warrant. No tribal law enforcement officer shall conduct any search without a valid warrant except:

(1) Incident to making a lawful arrest; or

(2) With consent of the person being searched; or

(3) When he has probable cause to believe that the person searched may be armed and dangerous; or

(4) When the search is of a moving vehicle and the officer has probable cause to believe that it contains contraband, stolen, or embezzled property.

Sec. 110. Disposition of seized property. (a) The police shall make an inventory of all property seized by warrant or otherwise, and a copy of such inventory shall be left with the person from whom the property was taken.

(b) A hearing shall be held by the tribal court to determine the disposition of all property seized by the police. Upon satisfactory proof of ownership, the property shall be delivered to the owner, unless such property is contraband or is to be used as evidence in a pending case. Property taken as evidence shall be returned to the owner after final judgment. Property confiscated as contraband shall become the property of the community and may be either destroyed, sold at public auction, retained for the benefit of the tribe, or otherwise lawfully disposed of as ordered by the court.

COMMENTARY

As with arrests, the general rule is that before a search may be conducted by tribal police officers a warrant is required, properly signed by a judge upon a finding of probable cause and "supported by oath or affirmation". (25 U.S.C. 1302(2)). This means that when the police request that a tribal judge issue a search warrant the judge must review the evidence and make an independent determination of whether he finds probable cause to believe that a search would discover any of the three following items:

(1) Stolen, embezzled or contraband property; (2) property which has been or is being used to violate the tribal code of law and order; or (3) property which constitutes evidence of such a violation. Contraband is property which cannot be legally possessed, such as marijuana, narcotics and, on some reservations, liquor. The request for a warrant contemplated under section 107(b) above resembles the federal requirement by taking the form of sworn written statements by witnesses setting forth specific dates, occurrences, and other details which tend to show probable cause to believe that evidence may be found at some particular place. In those cases where a complaint has been filed the complaint itself may supply sufficient information for issuance of a search warrant but this will not always be true. Regardless of the particular form used by a tribe, however, the Indian Bill of Rights requires that a judge make the ultimate determination of probable cause and that he do so only upon the basis of information which is sworn to.

(See the Commentary dealing with arrest warrants, finding of probable cause, and supporting complaints or affidavits following section 105 of this code. The principles discussed there are equally applicable to search warrants.) Furthermore the warrant itself must identify as precisely as is possible the place which is to be searched and what property may be seized, for a warrant may not be used as blanket authority to rummage through an individual's house or other property in search of anything which may be illegal.

Section 108 makes it clear that a warrant may not last indefinitely but that it expires if not executed within a certain time limit. This permits tribal judges to control to some extent the use of search warrants and insures that the authority to search is not abused by the police. There is no hard and fast rule on exactly how long a search warrant may be valid. Some tribal codes examined provide for a duration of only 36 hours, others provide no limit at all, and still others follow the 10-day limit employed in the federal system. While the 10-day maximum provided in this provision is not mandatory for tribes, it is recommended that tribal codes specify some limit for the validity of a search warrant.

Again, as with arrests, there are instances in which the police may conduct searches without first obtaining a warrant to do so, and section 109 above recognizes this. Certainly an officer should be allowed to search a person he has just arrested. Such a search, however, must be "reasonable" under the mandate of the Indian Bill of Rights. It could include, as permitted in the federal system, the person himself and his immediate surroundings. It could possibly be broader in scope. It would not include, however, an exhaustive search of a person's home or automobile on the sole rationale that such a search is incidental to the arrest. If such a search is deemed necessary, then a warrant should first be obtained.

The police also should be allowed to conduct a warrantless search of a premise when the person consents to it. Such consent, however, must plainly be voluntary, without any threat of penalty or duress whatsoever, and with an understanding of what is going to be searched.

Paragraph (3) of section 109 is similar in concept to the "stop and frisk" search recognized as proper in non-Indian courts. It permits the police officer to stop an individual on the street and conduct a limited search of him without placing him under arrest. Before being able to legally do so, however, the officer must reasonably conclude that the person is armed and dangerous. A mere hunch that the individual is carrying a weapon is not enough to justify searching him under this provision. But, for example, if the police officer recognizes the outline of a pistol in the person's pocket and the person is making threatening movements or is known by the police to have a record of assault with a dangerous weapon, this then would justify a limited search of his

outer clothing. Under the federal system the police officer must also reasonably conclude that preventive action is necessary in order to protect himself or others and even then he may only "pat down" the suspect or "frisk" his outer clothing.

Paragraph (4) of section 109 acknowledges the mobility of automobiles and other vehicles and the necessity of allowing some type of warrantless search of them for contraband or otherwise illegal property. This also is comparable to the federal system in which police officers have the right to stop and search without a warrant a moving vehicle when they reasonably conclude (i.e., have probable cause to believe) that it is carrying contraband, stolen, or embezzled property. Again though, this is an exceptional situation and one full of possibilities of abuse by the police. They should not be allowed to stop cars on the mere suspicion that the occupants of the car look like the type who would be carrying seizable materials in their car. They do not have to be certain but there must be enough evidence so that a reasonable man acting reasonably would conclude that the vehicle contains contraband.

The Indian Bill of Rights does not require that procedures be established for the disposition of seized property. However, for the protection of the court and innocent parties that may be involved it is recommended that such procedures be specified. Accordingly, section 110 of this code was drafted as a recommendation. Certainly there is a great deal of latitude for tribes to modify it or write their own to fit their individual needs as long as it is reasonable and fair.

A final point which should be discussed involves judicial treatment of physical evidence which has been obtained by the police via an illegal search, i.e., a search which violates the tribal code or the Indian Bill of Rights. A few tribes have dealt with this issue by codifying the exclusionary rule set forth by the Supreme Court as a constitutional requirement in both federal and state courts. This rule prohibits the use of any evidence seized through an illegal search to convict a person, and it was intended as a means to oversee police conduct by making it impossible for them to use illegally seized evidence and thus discouraging such searches. Furthermore the rule also excludes from use the "fruits" of an illegal search, that is, any information or leads obtained from the illegally seized evidence.

The rule raises many technical and often complicated problems which professional attorneys sometimes find difficult to solve. Moreover it is not something which the Indian Bill of Rights necessarily requires Indian courts to employ. For these reasons a provision on the exclusionary rule is not included in this model code. This is not to say, however, that the judge in a tribal court may regard himself as entirely free to ignore the fact that evidence was obtained by means of a patently illegal search. Conflicts with the Indian Bill of Rights would probably arise in such a situation.

It is suggested, however, that the judge be left with alternatives besides strict adherence to the exclusionary rule when he is presented with a case involving an illegal search.

The judge could be allowed to appraise the degree of misconduct by the police. If their deviation from required procedure was slight and it was committed while acting in good faith and from inexperience or ignorance then perhaps the evidence obtained should be allowed at trial and the error explained to the police officer. Also, if the offense charged is particularly serious and the importance to the tribe of a successful prosecution outweighs the importance of restricting police misconduct then the court may allow the use of the evidence. If, however, the deviation was great or was committed with conscious disregard for the requirements of a legal search then the evidence may be excluded as well as other steps taken to compensate the defendant and/or discipline the police.

Such steps could possibly include formal disciplinary action against the police officers involved, including suspension or removal from the force, or ordering the filing of criminal trespass charges (this is the approach taken in Title 25, § 11.16(b) of the Code of Federal Regulations and it is also used in some tribal codes) or recommending to the aggrieved defendant that he file civil suit against the police officers for trespass. In order to make available any of these sanctions, a tribe must include them in a code provision.

The reports of the field study indicate that questions involving illegal searches do not present frequent problems among the tribal courts surveyed. Nevertheless some consideration should be given by tribal councils to the question of how to minimize illegal searches by the police before challenges under the Indian Bill of Rights occur.

Sec. 111. Arraignment. (a) Arraignment is the bringing of an accused before the court, informing him of his rights and of the charge against him, receiving his plea, and setting bail as appropriate in accordance with Section 114 of this code.

(b) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall arraignment be later than the next regularly scheduled session of court.

Sec. 112. Rights of accused at arraignment. Before an accused is required to plead to any criminal charge the judge shall:

(1) Read to the accused and determine that he understands the complaint and the section of the tribal code which he is charged with violating, including the maximum authorized penalty; and

(2) Advise the accused that he has the right to remain silent; to be tried by a jury; and to be represented by counsel at his own expense and that the arraignment will be postponed should he desire to consult with counsel.

Sec. 113. Receipt of plea at arraignment. (a) If the accused pleads "not guilty" to the charge, the judge shall then inform him of a trial date and set conditions for bail prior to trial.

(b) If the accused pleads "guilty" to the charge the judge shall determine that the plea is made voluntarily and that the accused understands the consequences of the plea, including the rights which he is waiving by the plea. The judge may then impose sentence or defer sentencing for a reasonable time in order to obtain any information he deems necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to inform the court of facts in mitigation of the sentence.

(c) If the accused refuses to plead, the judge shall enter a plea of not guilty on his behalf.

COMMENTARY

In the tribal setting, arraignment serves the purpose of guaranteeing that the accused does not have to wait until the time of trial before he has explained to him the charges against him. Such a proceeding, whatever its title, is necessary to comply with the Indian Bill of Rights prohibition against denying to any person the right "to be informed of the nature and cause of the accusation" against him (25 U.S.C. 1302(6)). It is also the time when the accused enters a plea to the charge and the judge determines that the accused understands the rights which he may assert and those which he waives should he plead guilty.

Since in virtually all Indian courts there is no presentment or preliminary hearing as there is in the federal system, arraignment may serve the function of both of them, as well as dealing with the finding of probable cause when necessary (see section 102 and Commentary), the setting of bail if the accused is confined in jail, and any other preliminary matters.

Section 111(b) above provides that arraignment must be held "without unnecessary delay" after the arrest of the accused. An unnecessary delay may mean more than several hours in some situations and it may mean more than a couple of days in others, depending upon the court schedule on particular reservations and the day of the week on which the accused is arrested. Ideally this provision should probably specify a time limit within which arraignment must be held. Many tribes already do this by providing that arraignment be held within 72 hours in some tribal codes, 36 hours in others, and 24 hours in still others. The Indian Bill of Rights does not dictate that one time limit is any more mandatory than any other as long as the period established is reasonable and fair. Accordingly this provision, as well as Section 115 regarding bail, is drafted in such a manner that each tribe may examine its own court procedures and, if desired, specify a reasonable time limit for holding the arraignment.

Section 112 provides that the defendant shall be informed of the following

rights guaranteed to him by the Indian Bill of Rights:

(1) The right to be informed of the nature and cause of the charge against him (25 U.S.C. 1302(6)).

(2) The right to remain silent (section 1302(4)).

(3) The right to be tried by a jury (section 1302(10)) (but see section 124 and Commentary in this code).

(4) The right to counsel at his own expense (section 1302(6)).

In order to have a record that the defendant was in fact informed of these rights and to enhance his understanding of them, some tribes require that a defendant read and sign a form which sets forth all of the rights. A copy of this is then kept with the case file. Although such a practice is certainly not required of tribes, in view of the limited record-keeping capacities of the tribes it is a good way to prove compliance with the Indian Bill of Rights at this state of proceedings should such proof ever become necessary. For those tribes which may be interested in such a practice, there is included in the Appendix to this code sample Form No. 7 for such a purpose.

The Indian Bill of Rights guarantees many more rights than those identified above. It is not mandatory, however, that the accused be informed of and made to understand all of these at arraignment. The ones which we have identified in section 112 are those which are considered as crucial at this particular stage of the criminal process.

The entering of a guilty plea by the accused under section 113(b) is a serious step in the criminal process because it results in the conviction of the accused through a summary procedure. Therefore it should be done with care and the assurance that the defendant is entering the plea voluntarily and with an understanding of the consequences. The judge should determine that the accused fully understands his rights and that he is waiving many of those by entering a plea of guilty. Although there is still disagreement among courts as to precisely which rights the defendant must understand he is waiving by the plea, in order to avoid any possibility of a federal court challenge, it is suggested that the tribal court insure that the defendant understands he is waiving the following rights by entering a guilty plea: (1) The right to trial by jury (where this is granted in the tribal code (see section 124 and Commentary)); (2) the right to confront his accusers; and (3) the privilege against self-incrimination. Moreover the judge should determine that there is an absence of coercion in the defendant's plea; by that is meant that his decision to plead guilty should not be because someone threatened him, made improper promises, misled him as to the consequences, or otherwise improperly induced him to plead guilty to the charge rather than exercise his right to a trial. If there was such coercion then the judge has the duty to reject the defendant's plea and enter a not guilty plea in his behalf.

A final comment on the subject matter of an arraignment hearing: Section 101

(e) of this code contains the requirement that when an accused is arrested without a warrant the judge shall have the responsibility of finding that there is probable cause to hold the accused (either on bail or incarcerated). Thus if this determination has not been made prior to arraignment it should be made then and if cause is not found then the accused must be released.

Sec. 114. *Bail—release prior to trial.* Every person charged with a criminal offense before the tribal court shall be entitled to release from custody pending trial under whichever one or more of the following conditions is deemed necessary to reasonably assure the appearance of the person at any time lawfully required:

(1) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times.

(2) Release to the custody of a designated person or organization agreeing to assure the accused's appearance.

(3) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release.

(4) Release after deposit by the accused or a bondsman of bond in either cash or other sufficient collateral in an amount specified by the judge or a bail schedule. The judge, in his discretion, may require that the accused post only a portion of the total bond, the full sum to become due if the accused fails to appear as ordered.

(5) Release after execution of a bail agreement by two responsible members of the community.

(6) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

Sec. 115. *Bail—release by police officer.* Any tribal police officer authorized to do so by the court may admit an arrested person to bail pursuant to the bail schedule or release upon personal recognizance. Police officers shall have available a bail schedule prepared by the court or tribal council which shall be used for setting money bond where such condition of release is deemed necessary. Any police officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a tribal judge for review of the release conditions at the first available opportunity and without unnecessary delay.

Sec. 116. *Bail—release pending appeal.* Every person who has been convicted of a tribal offense and who has filed an appeal or a petition for a writ of habeas corpus shall be treated in accordance with the provisions of Section 114 above unless the judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose a danger to the community, to the accused or to any other person. If the judge finds such to be the case he may order detention of the accused.

COMMENTARY

The Indian Bill of Rights contains in subsection (7) a provision prohibiting the requirement of "excessive bail" (25 U.S.C. 1302(7)). This broad language leaves to the tribe a considerable amount of flexibility in what type of bail requirements it cares to set. Often, because of this flexibility, questions of policy and practical realities applicable to a particular tribe will be controlling factors rather than legal issues in formulating bail provisions. It is with this in mind that the foregoing model provisions are suggested as guidelines, rather than as definitive treatment of the areas. A tribe may also wish to include standards regulating the use of bondsmen in posting bail, or specifying the maximum bond which a judge may require, or any number of other largely administrative procedures which will vary depending upon the needs of the individual reservation. Numerous tribes already have perfectly adequate code sections dealing with those questions.

Section 114 above sets forth a general right to release of all persons prior to trial on conditions which will reasonably assure his appearance at trial. Thus the only factor which a judge or tribal officer may consider in setting bail is the likelihood of flight of the accused. We received feedback that a few tribes are interested in some type of preventive detention standards, i.e., allowing a judge the discretion to deny bail entirely to an arrested person who the judge felt would present a danger to the community if he were released on bail prior to trial. The District of Columbia presently has such a provision which was passed by Congress in 1970 (D.C. Code, section 23-1322). Also a few states have related provisions allowing detention in certain circumstances. The legality and appropriateness of these measures however, is still open to question and for this reason a preventive detention provision was not included in this draft. If a tribal council feels strongly, however, that preventive detention is a desirable feature to include in their code it is suggested that the D.C. Code be used as a model, modifying it as is deemed appropriate.

The six conditions of release listed in section 114 are intended to suggest to the tribes the range of possibilities available for release conditions, including the familiar cash bond which is in such widespread use by tribes. Clearly the emphasis in the federal system is on release on personal recognizance with nothing more than the accused's written or oral promise to appear at trial. Studies indicate that this approach works well. It gives the accused his freedom immediately thus facilitating preparation of his defense, retention of his job, and the meeting of his family obligations without presenting any unreasonable risk of his flight. And all this is accomplished without the unfair burden which falls on the poor who often cannot raise the money to meet a money bond. Furthermore some studies have indicated that releasing the accused on personal recognizance may

have a positive affect on his attitude and those of his friends and family toward the basic fairness of the social justice which they see in court.

These observations, however, are relevant more to policy decisions than legal issues. Clearly the Indian Bill of Rights does not require an emphasis on personal recognizance as a favored approach to bail. For this reason the bail provision was not drafted with such an emphasis. It seems peculiarly well suited to an Indian reservation with a relatively small population and where the community ties are generally strong and pervasive. But policy decisions such as these should be made by the individual tribes and tailored to their particular situations, considering such factors as the economic status of tribal members, size of the reservation, proximity of the reservation to towns and cities, and the volume of traffic on the reservation by non-tribal members. If a tribe should decide to include an emphasis on personal recognizance in its code we suggest language similar to the following:

Every person charged with a criminal offense before the tribal court shall be released from custody on his personal recognizance upon a written promise to appear at trial, unless the judge should determine that such a release will not reasonably assure the appearance of the person at any time lawfully required.

Likewise, not specified in this provision are any particular factors which a judge must weigh in setting bail. The federal courts are required by statute to consider the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's family ties, employment, financial resources, character and mental condition; length of the accused's residence in the community; the accused's record of convictions; and the accused's record of appearance or failure to appear at prior court proceedings. These reflect what were primarily policy decisions in that Congress wanted to insure that the bail setting process is and individualized one whereby the judge carefully evaluates the relevant attributes of each case and sets the minimum bail conditions necessary to insure that the accused does not flee prior to the disposition of his case. This is surely a desirable policy but not one necessarily required by the Indian Bill of Rights.

Section 115 is designed in recognition of the situation on many of the large reservations where a person arrested may be 50 miles or more from a judge. If the tribal police are unable to transport the accused to the judge for release on bail their only recourse is to lock him in jail to await the next trial date. Of course, in such a situation use of the summons procedure appears highly desirable. (See section 105 of this code). But in those cases where a summons is not or cannot be used, the police should have some mechanism available for release of the accused pending trial. Section 115 is intended to provide this by allowing the tribal court or council to

specify certain responsible police officers who may set conditions of release for the accused. Under this provision an officer may release the accused on personal recognizance or money bond. If he sets a money bond, however, he must use a bail schedule made available to him by the tribal court or council. Furthermore, if he denies bail or sets a bail condition which the accused cannot meet then he must bring the accused before a tribal judge for review of his decision at the first available opportunity. It should be kept in mind, though, that this provision does not permit tribal police to conduct the entire bail process themselves absent the supervision of a tribal judge.

Regardless of whether a tribe uses this draft provision or one it prepares itself, one element should be borne in mind: The Indian Bill of Rights prohibits the setting of excessive bail but this does not mean that bail must be granted in every case regardless of circumstances. However, equal protection and due process of the law prohibit the denial of bail arbitrarily or unreasonably or in a discriminatory manner.

Sec. 117. *Withdrawal of guilty plea.* The court may, in its discretion, allow a defendant to withdraw a plea of guilty whenever it appears that the interest of justice and fairness would be served by doing so.

COMMENTARY

If a defendant can demonstrate that some fundamental right of his was violated or that some injustice resulted from acceptance of his guilty plea then he should be allowed to withdraw it and plead not guilty. The above provision is included because of the due process clause in the Indian Bill of Rights (25 U.S.C. 1302(8)), and the privilege of a defendant not to be a witness against himself (25 U.S.C. 1302(4)). It reflects generally the principle that a defendant may ask at any time that he be allowed to withdraw his plea, but that in the absence of a manifest injustice, permission to withdraw the plea rests clearly in the sound discretion of the court.

If a request is made to a tribal judge for withdrawal of a plea he should question the defendant as to why he wants to withdraw it, what induced him to enter it in the first place, and whether he did so voluntarily and intelligently. The principal question should be whether some injustice or basic unfairness would result if the defendant's request for withdrawal of his plea is denied. This obviously is a very general issue and leaves a great deal to the discretion of the judge although the judge's discretion is not unlimited. Any decision to either grant or deny a request for withdrawal of a guilty plea must be arrived at in good faith and after a conscientious inquiry into the facts.

Sec. 118. *Standards governing appearance of attorneys and counselors.* (a) No defendant in a criminal proceeding shall be denied the right to counsel at his expense.

(b) The tribal council or tribal court shall prescribe in writing standards gov-

erning the admission and practice in tribal court of professional attorneys and lay counselors.

COMMENTARY

Prior sections of this code have discussed a defendant's right to counsel at his own expense and the duty of the tribal court to inform a defendant of his rights under the Indian Bill of Rights (25 U.S.C. 1302). While the question of standards governing the appearance of counsel before the tribal court is an important one it was not considered an appropriate subject for a detailed model provision. This is because of two reasons: (1) As long as the right to counsel itself is recognized in tribal courts the Indian Bill of Rights does not specifically prohibit nor require any particular provisions governing their qualifications; and (2) the customs, traditions, and operational requirements of the many tribal court systems are too diverse for one model provision to be very meaningful. Recognizing, however, that the manner in which a tribal court regulates the appearance of attorneys is an area where potentially serious legal questions could arise. The following comments are offered as guidance.

At the outset it is noted that two federal district courts have concluded that the "right to counsel" guaranteed in the Indian Bill of Rights means licensed professional attorneys and not simply "counsel" in the broad sense of a spokesman, advocate or advisor. In these cases the courts were rejecting the argument that "counsel" is a term which could be defined by the tribe and that the tribal government was free to exclude professional attorneys as long as a defendant had a right to be represented in a criminal proceeding by a lay advocate or spokesman. However, since a clear condition to exercise of the right is that counsel be "at the expense of the defendant" Congress implicitly acknowledged that even though an indigent may be unable to afford counsel the tribe has no responsibility to provide him with a public defender or court-appointed counsel.

Although a tribal court is required by the Indian Bill of Rights to allow representation by a professional attorney it does not follow that the court cannot impose certain regulations or qualifications on the appearance of such an attorney. In formulating such regulations, however, a tribe should be careful that it does not so restrict an attorney's appearance that his representation is effectively nullified. For example, although the tribe may conduct the proceedings in the tribal language (assuming that the defendant speaks the language or is furnished an interpreter) it probably could not require that the attorney demonstrate a knowledge of the language before he is allowed to make an appearance. Because of the extreme rarity of attorneys with a knowledge of an Indian language, such a requirement would effectively bar all professional attorneys from appearing in tribal court. A reviewing federal court would almost certainly

conclude that such a requirement is unreasonable and violative of the defendant's right to counsel. On the other hand it would be quite reasonable to require that an attorney demonstrate a knowledge of tribal customs and law, including the tribal code, relevant ordinances and court procedures. This could be accomplished by either oral or written examination or simply by having the attorney attest to the fact that he has read and understands all relevant materials on the tribal law.

The point to be made here is that where tribal court procedures and laws are different from the federal and state court models it is altogether reasonable to require the professional attorney who proposes to enter an appearance before the tribal court to familiarize himself with court procedures and to demonstrate his familiarity before being allowed to practice. The tribal courts are also free to propose such further "rules of court" as they see fit as long as they do not eliminate professional counsel nor effectively nullify his role. (See Commentary to section 123.) Additionally, tribal courts should recognize that they continue to possess their traditional authority to enforce their rules by means of a finding that a counsel is in contempt of court. Whenever an attorney refuses to abide by the rules of court the judge always retains the authority to find him in contempt of court and impose such sanctions as a fine or disbarment. Of course, this contempt power should be exercised only after less formal measures have proven inadequate and even then it cannot be exercised arbitrarily or without sufficient reason.

Finally, it is noted that some tribal codes specifically provide that professional attorneys shall be permitted to practice only in cases where their clients have been charged with the commission of a criminal offense. The Indian Bill of Rights makes specific provision for the right to an attorney in a criminal proceeding and examination of the legislative history of the Act supports the position that its main thrust was aimed at preventing abuses in the criminal process and that Congress simply did not address itself to the question of civil proceedings. Consequently, any question concerning appearances of professional attorneys in other than criminal proceedings appears to be a matter within the tribe's discretionary authority. However, it is conceivable that this authority may ultimately be restrained by the broad protections of due process and equal protection of the law.

The practice of restricting professional attorneys from practicing in a civil court proceeding is not without precedent in American jurisprudence. Some state governments presently operate a system of "small claims (consumer) courts" which have adopted a similar rule prohibiting parties from having an attorney represent them and argue their case. In addition, bills have previously been introduced in Congress to establish a compar-

able system on the federal level with the identical limitation as to professional counsel. The basic rationale which has been offered for barring counsel from these courts may be equally applicable to trials in tribal courts. Basically, the small claims or consumer courts are proposed in order to allow the public an opportunity to have their minor complaints settled unencumbered by the more technical aspects of the law and the attendant expense of an attorney. It is recognized, and the practice of state small claims courts without such a limit bears this out, that a party who is represented by a lawyer gains an immediate advantage over the party without a lawyer and consequently frustrates the idea of a fair and equal hearing of the merits in an informal atmosphere.

Sec. 119. Issuance of subpoenas. (a) Upon request of any party to a case or upon the tribal court's own initiative, the court shall issue subpoenas to compel the testimony of witnesses, or the production of books, records, documents or any other physical evidence which is relevant, necessary to the determination of the case and not an undue burden on the person processing the evidence. The clerk of the court may act on behalf of the court and issue subpoenas which have been signed by a tribal judge and which are to be served within the confines of the reservation.

(b) A subpoena shall bear the signature of the Chief Judge or any Associate Judge of the tribal court and it shall state the name of the court, the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

Sec. 120. Service of subpoenas. (a) A subpoena may be served at any place within or without the confines of the reservation, but any subpoena to be served outside the reservation shall be issued personally by a judge of the tribal court.

(b) A subpoena may be served by any tribal police officer or other person appointed by the court for such purpose. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his place of residence with any competent person 16 years of age or older who also resides there.

(c) Proof of service of the subpoena shall be filed with the clerk of the court by noting on the back of a copy of the subpoena the date, time and place that it was served and noting the name of the person to whom it was delivered. Proof of service shall be signed by the person who actually served the subpoena.

Sec. 121. Failure to obey subpoena. In the absence of a justification satisfactory to the court, a person who fails to obey a subpoena may be deemed to be in contempt of court and a bench warrant may be issued for his arrest.

Sec. 122. Witness fees. (a) Each witness answering a subpoena shall be entitled to a fee of \$_____ for each day his

services are required in court. In addition, the court may order the payment of reasonable travel and living expenses of the witness.

(b) The fees and expenses provided for in this section shall be paid by the tribe upon completion of the trial, but such expenses may be taxed as costs against the defendant if he is found guilty, provided, however, that no defendant shall be incarcerated solely because of his inability to pay such costs immediately.

(c) If the court finds that a complaint was not filed in good faith but with a frivolous or malicious intent, it may order the complainant to reimburse the tribe for expenditures incurred under this section, and such order shall constitute a judgment upon which execution may levy.

COMMENTARY

Section 202 of the Indian Bill of Rights (25 U.S.C. 1302(6)) provides that no tribal government may deny to any person in a criminal proceeding the right to have "compulsory process for obtaining witnesses in his favor." Section 119(a) above implements this requirement by providing for the issuance of subpoenas compelling witnesses to testify at trial or to produce relevant documents for admission as evidence at trial. Under this provision, however, the party requesting a subpoena for production of physical evidence cannot do so indiscriminately. If the judge considers that the materials sought are not relevant or necessary or that their production would impose an unnecessary burden on the person possessing the evidence then he may refuse to issue the subpoena. Such a denial, however, should be done with care for the refusal to subpoena documents important to a party could provide a basis for appeal.

Virtually all tribal codes have some provision for subpoena powers but few contain the allowance included in section 119(a) whereby the clerk of the court has the authority to actually issue subpoenas which have already been signed by a judge. This is an optional provision intended as a suggested means to minimize judicial participation in the issuance of routine subpoenas for witnesses clearly necessary to the requesting party. Thus when either the police, for example, or the defendant wants to subpoena key witnesses essential to the case it is not necessary that they go before a judge to request such subpoenas. The clerk of the court will have in his possession subpoena forms already signed by the judge in blank and they may be completed and issued in the clerk's office. If, however, the use of subpoenas on a particular reservation is quite rare or if the judge has the time and the desire to be exclusively in charge of the subpoena-issuing process then this sentence in section 119(a) should be omitted.

There is no legal prohibition which prevents the court from issuing a subpoena to a person beyond the boundaries

of the reservation and section 120(a) reflects this principle. However, if the person is outside the boundaries of the reservation there may be a substantial problem in enforcing the subpoena. If the subpoenaed person fails to appear as ordered, the court could issue a warrant for his arrest to be executed upon his appearance on the reservation. In the absence of this, the only way such a subpoena could be enforced would be by seeking the cooperation of the local state or federal court which has jurisdiction over the person and requesting that that court order the person's appearance before the tribal court. However, this may require a form of reciprocal agreement between the tribe and neighboring state. Because of these potential complications the discretion to issue a subpoena directed at someone off the reservation rests with the judge only and not the clerk.

Subsections (b) and (c) of section 120 describe the manner in which a subpoena may be served and proof of service made. It is quite similar to many of the present tribal codes except for the allowance of serving a subpoena on any person 16 years of age or older who resides at the same place as the person named in the subpoena. This also is an optional provision similar to that used in the federal system and intended to show that the Indian Bill of Rights does not necessarily require that a subpoena be handed personally to the named person but rather may be left with a member of his household.

Section 122 provides for the payment of a basic witness fee to compensate the subpoenaed witness for the inconvenience and potential loss of work income which he incurs while his presence is required in court. Additionally, the judge has the discretion to order compensation to the witness for his living and travel expenses. This latter allowance could become important to a witness if he lives a long way from the court or if he must seek public transportation to get there. The exact amount of the witness fee is left up to the individual tribes. Many tribal codes provide for a payment of \$5.00 per day, others \$4.00 and still others less. Moreover some tribal codes specify a certain mileage rate to be paid the witness for his travel expenses, such as seven or eight cents per mile for the distance from his home to the court and return.

Subsection (b) of section 122 allows the court the discretion to assess costs of the trial against the defendant if he is found guilty. (See section 125(c) and Commentary on the necessity of allowing time for indigents to pay costs.) Factors to consider in making such a judgment should include the nature of the offense, how strong a defense was presented, and the financial condition of the defendant. This subsection does not allow, however, for assessment of costs against the defendant if he is acquitted.

Subsection (c) of section 122 provides for assessment of costs against a complainant in cases where the court concludes after a hearing that the complaint

was filed with a frivolous or malicious intent. This does not mean, however, that costs may be assessed against a complainant simply because the defendant was acquitted; it must appear that the complaint was entirely without substance. This provision is intended to complement section 101(c) of this code providing for an initial screening of complaints and presumably the two together will eliminate cases of a frivolous nature. Subsection (c) is intended to apply where the complainant's sworn, uncontested statement does establish the necessary cause to believe that an offense has been committed, but it is later determined upon clear convincing evidence that the complaint was entirely without merit and the complainant knew it.

SEC. 123. *Trial procedure.* (a) The time and place of court sessions, and all other details of judicial procedure shall be set out in rules of court approved by the tribal council.

(b) The court shall not be bound by common law rules of evidence, or the rules of evidence which pertain in state or federal courts.

COMMENTARY

One of the areas in which there has been a good deal of confusion and apprehension over exactly what the Indian Bill of Rights (25 U.S.C. 1302) requires of tribal courts is in the identification of standards for criminal trial procedure. Some persons have expressed fears that the act was intended to require tribal courts to adopt all of the standards and technical requirements which apply to the trial of criminal cases in non-Indian courts. They object that doing so will result in a breakdown of the tribal court system. Imposing American judicial precedents on tribal courts might indeed cause great problems, however, such a requirement apparently was neither intended nor expected by Congress when passing the Indian Bill of Rights. Respect for the broad principles of due process and equal protection of the law is required of tribal courts, but the specific interpretation of those principles found in the case law of American courts does not bind the tribal courts in precisely the same way or to the same degree. That interpretation may be made by tribal courts within the framework of basic fairness and sensitivity for the more traditional Indian approaches to administering justice.

Rules of trial procedure are generally set by the court itself. This affords maximum flexibility for each court to establish rules which take into account the case load of the court, the extent of staff and facilities which are available to the court, and the level of expertise of the staff. Accordingly, no attempt has been made to include in this code specific provisions dealing with trial procedure. Rather, there is discussed briefly the broad principles involved, some of the potential problems for which tribes should be on the lookout, and a few suggestions are made; but the drafting of actual code provisions or court rules

are left to the individual tribes as is fitting their particular situations. Likewise this commentary does not explain in detail the sequential steps of a criminal trial in American courts. A review of these steps might be useful for tribes as a starting point in devising their own procedures, but these steps are readily available from other sources, such as the Criminal Court Procedures Manual prepared by the National American Indian Court Judges Association.

Some issues which are relevant to trial procedure have been discussed in the commentaries following other provisions of this code and these should be consulted when appropriate. (See sections 101-111, 124 and 128 of this code on complaints, arrest, search and seizure, arraignments, jury trials and trial records.) But the following provisions of the Indian Bill of Rights bear directly on trial procedure in tribal courts:

(1) No tribal government may "compel any person in any criminal case to be a witness against himself." (25 U.S.C. 1302(4).)

This provision, along with the due process of law requirement (25 U.S.C. 1302(8)), constitutes the foundation for the right to remain silent with which most tribal governments are already familiar. It means that from the moment that a person is arrested through the period of his trial and sentencing he may not be compelled to make any statement unless he does so voluntarily. The point at which this right most often becomes crucial for the accused is immediately after his arrest because then the pressures to confess, either psychological or otherwise, are usually the strongest. Moreover, afraid and usually without representation, the accused is most susceptible to those pressures.

As discussed in the commentaries following arrest (p. 22) and search procedures (p. 30), the police may not coerce an incriminating statement from the accused nor conduct an illegal search, and the tribal judge has the ultimate responsibility of insuring that they do not. In the federal system, any issue involving the possibility of an involuntary confession or illegal search is argued and ruled upon at a "suppression hearing" which usually is held long before trial.

Clearly some mechanism should exist in tribal courts to resolve questions concerning the use of illegally obtained confessions or physical evidence but a formal pre-trial suppression hearing as held in federal courts is not mandatory, unless a tribal government elects to make it so. Other possible alternatives to such a hearing might include: (a) A verbal inquiry by the judge of the parties immediately before trial or at arraignment as to whether there is any confession or other seized evidence which will be presented in the case; and if so, whether there is any objection to its admissibility; or (b) simply proceeding with the trial until such time as the suspect evidence is offered and then hearing argument on its admissibility; or (c) discussing the question informally in a pre-trial conference.

The pre-trial conference can be a useful procedure not only for disposing of questions of evidence but also for dealing with any other matters which might serve to expedite trial. It should be used, however, only when the defendant is represented by counsel. For those tribes which may be interested in including a provision for pre-trial conferences in their criminal procedure codes, it is suggested that they use language similar to the following:

At any time after arraignment the court, at the request of any party or upon its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious trial. Such a conference shall be held only if the defendant is represented by an attorney or spokesman to act in his behalf. At the conclusion of the conference the court shall prepare and file a memorandum of the matters agreed upon and any orders that the court deems appropriate to the case.

(2) No tribal government may "deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense." (25 U.S.C. 1302(6)).

Since trials are frequently held on the same day as arraignment in many tribal courts or at the most within a couple of weeks and since they are usually open to the public, tribes should have no difficulty in complying with the "speedy and public" trial requirement. Likewise if the tribes use some form of arrangement proceeding as described in sections 111-113 of this code they should not be vulnerable to an accusation of failing to inform the defendant of the charges against him. And if they have a subpoena procedure similar to that set forth in sections 119-122 of this code they have provided the defendant with "compulsory process."

The right to be "confronted with the witnesses against him" means not only that the accused has the right to see and hear the evidence against him but that he also be given the opportunity to question his accusers and the witnesses they bring forth. This is the vitally important right in an Anglo court to cross-examine the prosecution's witnesses in order to test their recollection of events and the truthfulness of their statements. Although the right itself to be confronted with witnesses may not be abrogated, the manner in which it is exercised and specifically the role the attorney plays in that exercise may be at variance with non-Indian procedure in order to be consistent with the generally more informal nature of trials in Indian courts. Thus the same adversary system so familiar to every non-Indian attorney would not necessarily have to be employed in Indian courts. As an alternative, the judge may play a more direct role in which he himself thoroughly questions the complaining witnesses and defendant and allows the jurors (if it is a jury trial) to direct questions themselves. In such a scheme, the counsel or advocate would

be permitted to question witnesses only after the court had completed its own examination. Proceeding in this manner might well eliminate the many objections and legal arguments which so characterize trials in American courts, but still guarantee a fair trial.

(3) No tribal government may "deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." (25 U.S.C. 1302(8)).

The "due process of law" clause operates as probably the most sweeping check on governmental actions recognized in Anglo courts today. And its impact has been particularly noticeable in the area of criminal procedure where, using the test of "fundamental fairness," the courts in recent years have taken bold steps to oversee police activities as well as supervise the functioning of the judiciary itself. Thus, whereas the precise interpretation of both the due process and equal protection clauses by non-Indian courts is not necessarily binding on tribal governments, it is important that tribes be cognizant of the potential impact of these two legal catch-alls when they are formulating their own rules for criminal trial procedure.

Equal protection of the laws means simply that the law shall be applied equally to every person in like circumstances, regardless of his race, color, creed or class. And in the context of trial procedure, due process of law, in its barest essence, means that an accused person shall: (a) Be advised of the charges against him; (b) be given notice of the time and place where his case will be heard; (c) have an opportunity to confront his accusers; (d) have the opportunity to present evidence in his own behalf; (e) and have the question of guilt or innocence decided by a trier of facts whose decision is based solely on the evidence presented in the case and not on any preconceived notions, regardless of whether trial is by the judge or by a jury. All of these principles must be observed in a spirit of fairness and impartiality but not necessarily with the formality common to federal or state courts. Clearly the prosecution has the burden of proving the accused's guilt beyond a reasonable doubt, including the facts that the court has jurisdiction over the case, that a crime has actually been committed, and that the defendant committed it with the requisite intent (when intent is an element of the offense required by the tribal code). In response the defense may challenge the jurisdiction of the court, or show that the defendant did not commit the acts charged or that his acts were justified, or that his acts were excused by some mental incapacity. Beyond these broad guidelines, however, tribes should feel free to experiment with procedures which guarantee fundamental fairness to both parties but which also facilitate the prompt, efficient and economical dispensation of justice.

In fact, some tribes have already adopted measures to insure that all of the technical rules of procedure used in

Anglo courts are not viewed as binding on tribal courts. For example, at least one tribe has adopted its own code provision setting forth vastly simplified and streamlined rules of evidence for its courts. Other tribes have specifically stated either in their codes or in court rules that the rules of evidence pertaining in state and federal courts do not apply in their courts. Both approaches are considered to be sensible and realistic solutions to a potentially difficult problem for tribal judges.

Sec. 124. *Jury trial.* (a) Any person accused of a crime for which imprisonment is a possible penalty may be granted a jury trial, upon his or her request made at time of arraignment. A jury shall consist of at least six members of the tribe selected at random from a list of eligible jurors prepared each year by the tribal council or other appropriate body.

(b) An eligible juror is a tribal member who has reached the age of _____ years, has not been convicted of a felony, and is not otherwise unqualified according to standards established by the tribal court under its general rule-making authority.

(c) Each party shall have the right to challenge an unlimited number of jurors for cause on the basis of lack of qualifications, partiality, or otherwise acceptable reason. Whether or not cause exists shall be determined by the judge in all instances. In addition, each party shall have the right to a maximum of three peremptory challenges for jurors, for which no reasons need be given and which the judge may not refuse to grant.

(d) The judge shall instruct the jury with regard to the applicable law and the jury shall decide all questions of fact on the basis of that law.

(e) The jury shall deliberate in secret and return a verdict of guilty or not guilty. The judge shall render judgment in accordance with the jury verdict.

(f) Each juror shall be paid out of tribal funds the sum of \$_____ for each day of service, plus _____ cents a mile for his transportation costs to and from court.

COMMENTARY

The Indian Bill of Rights states that a tribe may not "deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons." (25 U.S.C. 1302(10)). A literal reading of this language is that anytime a defendant is charged with any offense whatsoever under the tribal code or the Code of Federal Regulations which may subject him to a jail sentence, regardless of how brief, then the tribal court is required to grant him a jury trial upon his request.

The impact of such an interpretation could be devastating because it would mean that prosecution in tribal courts of many minor offenses, including those traditionally thought of as petty in American law, may involve the necessity of a trial by jury. Prosecution for disturbing the peace, public drunkenness,

failing to send one's children to school, and violations of the game and traffic laws, all of which in some tribal codes are punishable by short jail terms, may be burdened by the added expense, time, cumbersome procedures and strain on courtroom facilities inherent in a jury trial.

"Petty offenses" have been defined by Congress and in many federal court decisions as those offenses which have a maximum penalty of six months imprisonment. And despite the clear language of the Constitution that all "crimes" (Art. 3, section 2) and all "criminal prosecutions" (Sixth Amendment) shall be tried by a jury, allowance has always been made in American law for denying the right to a jury trial to defendants charged with petty offenses even though they may be imprisoned upon conviction. This exception has long been recognized in both federal and state courts and frequently justified on the basis that the rights of the individual defendant as well as the public interest are best served by the prompt, inexpensive disposition of minor offenses which is afforded by relatively informal non-jury trials.

Fairness and reason dictate that because of the maximum sentence of six months which tribal courts have jurisdiction to impose and because of the "petty" nature of many of the offenses tried in those courts this exception to the general right to a jury trial is even more appropriate in Indian court systems. Yet a literal reading of the Indian Bill of Rights would not allow for this exception.

Tribes may, for this reason, interpret section 1302(10) as not granting an absolute right to a jury trial for all tribal offenses, even though the defendant may request it and even though imprisonment may be a possible penalty. To do otherwise would ignore the frequently expressed intention of Congress and the courts alike to avoid any unnecessary interference with the cultural and governmental autonomy of Indian tribes. For it is difficult to imagine a more striking example of interference than that of requiring jury trials, a concept essentially alien to Indian systems of justice, for all criminal offenses tried in tribal courts.

By the use of "may" instead of "shall" subsection (a) of this provision reflects this analysis that the tribe has some discretion in granting jury trials. Whether a tribe adopts this provision though or something similar it should consider the advisability of adding more specifics as to exactly when a jury trial is a right and when it may be denied, if at all. Two possible criteria which have been used in federal courts, for example, are (1) the nature of the offense, or (2) the maximum length of sentence. By the first standard a jury trial was a right for those offenses which were historically considered "serious" in nature. And in actuality the second standard was thought of as only a modification of the first in that the maximum authorized sentence was viewed as an indication of

the seriousness of the offense. A third possible criterion is that used in the Code of Federal Regulations (25 CFR 11.7C(a)) providing that whether there is a "substantial question of fact" in the case determines if a jury trial may be demanded or not. Of the three alternatives the Code of Federal Regulations provision is the least consistent with section 1302(10) of the Indian Bill of Rights. While it is not necessarily invalid, it would appear that a court would have considerable difficulty in denying that a substantial question of fact was presented in the face of a not guilty plea.

The other elements of this model provision deal with areas in which there is clearly considerable room for discretion and individual tailoring by the tribes. Accordingly subsections (b) through (f) should be viewed as general expressions of rights in criminal procedure and examples of what can be done but not necessarily what is required.

There is a great deal of discretion permitted in the setting of qualifications for jurors and in devising a selection method but the provisions which may be adopted are not free of legal restraints for they must be reasonable and may not discriminate against any particular group or segment of the community contrary to the equal protection of the laws mandate. In this regard it should be noted that although federal courts have long interpreted the equal protection clause of the Constitution as prohibiting discrimination in selection of jurors on the basis of race, color, natural origin or class, it does not follow that the same clause in the Indian Bill of Rights proscribes selection of tribal court juries from Indians only. This is because Indian communities are separate political entities. Just as a state may establish citizenship and residency requirements in the selection of jurors, so may an Indian community require tribal membership.

Subsection (b) sets forth two juror qualifications used consistently throughout tribal codes: age and no felony record. The majority of tribal codes examined specify twenty-one as the minimum age for jurors. There is no reason, however, why any other reasonable age could not be used by tribes. Other proper and frequently prescribed qualifications are those requiring mental and physical alertness, language facility, and residency in a specified geographic area.

Both due process of law and the right to a jury trial would inherently require that jurors be impartial and able to reach a judgment on the evidence presented in court. The right afforded to both the prosecution and the defendant to challenge jurors serves as a means to protect these interests. If a juror does not meet the qualifications established by the tribe or if it can be shown that because of some relationship to a party, prior knowledge of the case, or other factor he cannot render a fair and impartial judgment, then he should be excused from serving on the jury. The judge, however, makes the ultimate decision when a juror is challenged for cause.

There is nothing particularly mandatory about the number of peremptory challenges which may be permitted each side. Subsection (c) specifies three solely because that is the number most often used in tribal codes, but a tribe may increase or decrease this number as it sees fit.

Some tribal codes grant to the judge the power to subpoena jurors and the power to excuse them from serving at all when the personal hardship would be too great. In view of the difficulty on some reservations with insuring that jurors report for service when they are called, the subpoena power might be essential for efficient operation of a jury system. This again, however, is a matter which should be decided locally and which could be drafted in a simple form.

Sec. 125. Sentencing. (a) Any person who has been convicted in the tribal court of a criminal offense may be sentenced to one or a combination of the following penalties:

(1) Imprisonment for a period not to exceed the maximum permitted by the code provision defining the offense, which in no case shall be greater than six months.

(2) A money fine in an amount not to exceed the maximum permitted by the code provision defining the offense, which in no case shall be greater than five-hundred dollars (\$500.00).

(3) Labor for the benefit of the tribe.

(4) Rehabilitative measures.

(b) In addition to or in lieu of the penalties provided in subsection (a) above, the court may require a convicted offender who has inflicted injury upon the person or property of another to make restitution or compensate the injured person by means of the surrender of property, payment of money damages, or the performance of any other act for the benefit of the injured party.

(c) If, solely because of indigency, a convicted offender is unable to pay forthwith a money fine assessed under this section or costs assessed under section 122(b) of this code, the court shall allow him a reasonable period of time to pay the entire sum or allow him to make reasonable installment payments to the clerk of the court at specified intervals until the entire sum is paid. If the offender defaults on such payments the court may find him in contempt of court and imprison him accordingly.

Sec. 126. Probation. (a) Where a sentence of imprisonment has been imposed on a convicted offender the tribal court may, in its discretion, suspend the serving of such sentence and release the person on probation under any reasonable conditions deemed appropriate by the court, provided that the period of probation shall not exceed the maximum term of sentence set for such offense in the tribal code of law and order.

(b) Any person who violates the terms of his probation may be required by the court to serve the sentence originally imposed or such part of it as the court may determine to be suitable giving consideration to all the circumstances, provided that such revocation of probation shall

not be ordered without a hearing before the court at which the offender shall have the opportunity to explain his actions.

Sec. 127. Parole. (a) Any person sentenced by the court to detention or labor shall be eligible for parole at such time and under such reasonable conditions as set by the court.

(b) Any person who violates the conditions of his parole may be required by the court to serve the whole of the original sentence, provided that such revocation of parole shall not be ordered without a hearing before the court at which the offender shall have the opportunity to explain his actions.

COMMENTARY

The Indian Bill of Rights provides that no tribal government may "impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of \$500, or both." (25 U.S.C. 1302 (7)). Generally as long as tribes comply with the six-months and/or \$500 fine limitations they should have little difficulty in making their tribal codes consistent with this Indian Bill of Rights prohibition. In fact, in the currently existing tribal codes which were surveyed few potential problems with the sentencing provisions were found and they were used as a pattern to some degree for the above sections.

The allowance in section 125(a) (3) and (4) above for penalties in the form of performing labor which benefits the tribe or of certain rehabilitative measures, which are intended to benefit the offender as well, is a general expression of the sentencing alternatives which may be made available to a judge besides imprisonment or a fine. A tribe may wish to make the alternatives more specific by listing the various options which may be considered by a sentencing judge, such as work of a particular nature or identifying the rehabilitative step, if any, or it may wish to eliminate them entirely. Certainly the Indian Bill of Rights does not prohibit any of these approaches as long as the sentence imposed does not appear to be "cruel and unusual."

Subsection (b) of section 125 is similar to a provision included in the Code of Federal Regulations (25 CFR 11.33(c)) and is intended here as a statutory recognition of the sentencing approach which is perhaps the most firmly rooted in Indian tradition and sense of justice—that of compensating the victim for the injury he suffered at the hands of a criminal offender. Even though this concept is unfamiliar to American jurisprudence no compelling reason was discerned why, if so desired, it cannot legally be used by Indian courts, as long as the restitution ordered is reasonable and fair.

Subsection (c) of section 125 is intended to insure that a convicted person who is unable to pay a fine or costs solely because of his financial situation is not denied the equal protection of the laws because of his indigency. This does not mean that an indigent defendant may

not be sentenced to imprisonment upon conviction. Nor does it mean that he may not be imprisoned for nonpayment of a fine. It does mean, however, that if he is fined but is unable to pay the fine immediately, then rather than being incarcerated for nonpayment he must first be given some alternative means to satisfy the debt. Under this code provision those alternative means are the allowance of time to raise the money or the permission to make installment payments until the total sum is satisfied. If the defendant still does not pay the fine, then he may be jailed; and such imprisonment may be required in addition to any sentence which may have been served for conviction of the original offense. It would seem, however, if the additional imprisonment ordered by the court exceeds the maximum term authorized by the statute defining the original offense, a denial of equal protection or due process of the law might result.

It should be noted additionally that the power of a court to impose a jail sentence for nonpayment of a fine appears to be in the nature of a contempt power which is premised on a willful act or omission. Thus even though there is no present requirement for any additional hearing when the defendant fails to meet his installments, it may be advisable for the court to make some additional inquiry as to the cause of nonpayment by the defendant before imposing a jail sentence.

This code provision does not include any specifics as to what factors a tribal judge must consider in fixing a sentence. The tribe may wish to leave this unspecified or it may wish to draft its own list of detailed requirements in this area. Whichever approach is chosen, however, we would suggest that, in exercising his sentencing discretion, factors such as the following would be logical and helpful to a judge:

(1) The previous conduct of the defendant, including his reputation in the community and any prior arrest record.

(2) The circumstances under which the offense was committed, including any indications of a malicious or willful state of mind.

(3) Any efforts made on the offender's own initiative to make amends to an injured party.

(4) The extent of the defendant's personal resources and whether the needs of his dependents may be affected by the type of sentence imposed.

Section 126 provides that a tribal judge has the discretion to place a convicted offender on probation instead of jailing him, but that such probation cannot exceed the maximum term of sentence set forth in the code. This period was selected solely because it is the one used in the majority of tribal codes surveyed and is the one used in the Code of Federal Regulations (25 CFR 11.34(a)). However, probation is different from incarceration so it does not appear that the limitation on the sentencing authority placed on the tribes (maximum of six months imprisonment) by the Indian Bill of Rights (25 U.S.C. 1302(7)) limits their

authority in providing for terms of probation. Further, it is common practice under both federal and state law to permit judges to impose periods of probation exceeding the term of imprisonment provided for the offense. Thus tribes should feel free to adopt code provisions extending the authorized period of probation beyond the limitations contained in this provision.

In both section 126 (Probation) and section 127 (Parole) there is included a requirement for the holding of a hearing before probation or parole may be revoked and the offender incarcerated. Although this probably represents a departure from most present tribal codes it is included here because of the possibility that a denial of due process of law might result if probation or parole is revoked summarily without explaining to the offender why or giving him any opportunity to contest the action. The hearing contemplated must be conducted by the judge but it need not be particularly formal in nature, provided that adequate explanation is given to the offender as to what is at stake and he is allowed to present his position. Moreover as with all proceedings before the court, it is desirable that some record be prepared of the hearing so that a tribal judge may be able to justify his actions if the need should ever arise to do so.

Section 127 provides for a general right to parole but leaves entirely to the tribal judge the question of when that right becomes available to a defendant and under what conditions. In the Federal system responsibility for granting or denying parole rests with a non-judicial Board of Parole; and some tribes also use an executive body for this purpose, such as the law and order committee, or some combination of judges, tribal council members, and members of the community. Questions of parole are perhaps best decided by some body other than the court but most tribal codes surveyed specify "the court" and there is nothing in the Indian Bill of Rights which prevents this solution. To avoid at least the appearance of bias, however, it is recommended that if tribal judges consider questions of parole, the judge originally sentencing the defendant not be allowed to participate in the decision.

In the federal system a person usually becomes eligible for parole after serving one-third of his sentence although he may not necessarily be granted parole at that time. Under the Code of Federal Regulations one sentenced in a Court of Indian Offenses must serve one-half of his sentence before he is eligible for parole (25 CFR 11.35(a)). There is nothing in the Indian Bill of Rights, however, which requires that either of these standards be used. Thus a tribe may draft its own standard in this area or it may leave it up to the judge's discretion as does this section. Both approaches have their advantages, and tribes should assess those advantages in light of their individual court systems.

Sec. 128. Appeals. (a) An appeal may be granted to any person convicted of a

violation of the tribal code of law and order who, within ---- days of his conviction, files a written notice of appeal with the court outlining substantial grounds for the granting of such an appeal.

(b) In all criminal convictions the determination as to the sufficiency of the grounds for an appeal shall be made by the appeals body and shall be final. The appeals body shall notify the appealing party in writing whether the appeal has been granted or denied.

COMMENTARY

An appellate process is not an express requirement of the Indian Bill of Rights (25 U.S.C. 1302) but it is provided for here for the following reasons: Nearly every tribe currently has provision in their code for an appeals process and in the hearings on the Indian Bill of Rights Congress expressed a keen interest in insuring that those processes function. Moreover, where there has occurred or allegedly occurred violations of the defendant's rights under the Indian Bill of Rights failure to provide a mechanism for an appeal within the tribal court system increases the probability of federal court intervention in the functioning of the tribal court. This is because a defendant who feels that he did not get a fair trial and who has no avenue of appeal available to him in the tribal structure is more likely to file a habeas corpus petition in federal court to challenge his conviction and detention. Such a result can serve only to weaken the tribal court system and ultimately to weaken the concept of tribal sovereignty. Therefore the above rather minimal provision has been drafted as an encouragement for tribal governments to assess and strengthen their appellate processes.

Section 128 above is not a definitive treatment of the subject of appeals; rather, it is intended as a skeletal provision showing who may appeal, when, and how. The tribe, of course, can establish any reasonable time limit it desires for the filing of a notice of appeal required in subsection (a). The limit, however, should be long enough after trial to allow a party time to consider his course of action and, if so desired, retain an attorney, but it should not be so long as to unnecessarily drag out the appeals process.

No mention is made in this provision of the composition of the appellate body, the exact form which an appeal must take, or the grounds upon which an appeal may be founded. Nor is any provision made for a filing fee. Again, these are questions which should be answered by each individual tribe in light of what is most easily and fairly adaptable to its situation, but the following comments might be helpful.

Each tribe must make essentially three principal decisions in order to establish an appellate process: (1) Who hears the appeal and what is the composition of the appellate body; (2) what form the appeal takes; and (3) what constitutes grounds for appeal. Among the tribal

codes now containing appeal provisions a common solution to the first question is establishing a panel consisting of all the judges of the tribal court except the one who presided over the trial. Besides a panel of judges other bodies sometimes employed in tribal codes for hearing appeals are the tribal council, the tribal law and order committee, the tribal attorney, or an appellate court entirely separate in composition and function from the trial courts.

Tribal governments have used essentially one of two procedures for the form of an appeal—appellate hearing or new trial. The hearing often consists of reviewing in detail the original trial in order to determine if prejudicial errors occurred of such a nature that they deprived the trial of fairness and impartiality. The appellate body may make such a review on the basis of the trial record alone or it may also consider oral and/or written arguments presented by all parties. The new trial approach used by some tribes means that an entirely new trial is granted of all the factual and legal issues which were involved in the original trial. This "appellate trial" is conducted just as if the first trial never occurred and the appellate body finds its verdict solely on the basis of the evidence presented in the new trial.

An appeal may be either an absolute right or the appeals body may review all notices and decide whether to grant or deny the appeal. Some tribal codes do not identify any particular grounds for an appeal; it is granted automatically upon demand. Others state that there must have been "prejudicial error" before an appeal may be taken and still others specify certain grounds, such as perjury, evidence which was not available in the original trial, or particular errors of law or procedure. Section 128 above provides an absolute right to file a notice of appeal but the appellate body has the discretion as to whether to grant the appeal or not. This procedure is intended as a device to minimize the burden to an appellate body of having to hear large numbers of frivolous appeals based on unfounded claims. Although this is something which is apparently not much of a problem for tribes now it could be if a functioning and popularly recognized appellate system is set up on reservations. Section 128 also provides that the appealing party be notified in writing of whether his appeal has been granted or not. If it is granted and if the appeals process includes a hearing or new trial, the appealing party should be notified in writing of the date set. Even though the Indian Bill of Rights does not establish a right to appeal, it should be recognized that if an appellate process is provided it must afford due process and equal protection of the law.

No judgments are made on which of these schemes or others should be used by the tribes to set up or strengthen an appellate system. A design which is efficient and fair in one tribal setting may be totally unworkable in another. But whichever method is selected, the appel-

late process should be so designed that it can effectively function when called upon. Unless the appellate process provides for a new trial, some form of record-keeping must be instituted in order to provide material for the appellate body to review. Such a record might be provided by an actual recording or stenographic notes of the trial proceeding, or by a written statement of the proceedings agreed to by the trial judge and all parties. By providing a workable appellate system, tribes will not only preclude any potential non-compliance with the Indian Bill of Rights but they will also minimize the possibilities of intervention by a federal court and the attendant disruptions of the tribal court system which that could bring.

Sec. 129. *Qualifications and training of judges of courts of Indian offenses.* (a) No person shall be eligible to serve as a judge of the Court of Indian Offenses if: (1) He or she has ever been convicted of a felony; or (2) has been convicted of a misdemeanor within one year previous to assuming office.

(b) No judge of the Court of Indian Offenses shall be qualified to preside over any matter wherein he has any direct interest or wherein any relative by marriage or blood in the first or second degree is a party.

(c) Each judge of the Court of Indian Offenses shall be appointed by a two-thirds vote of the tribal council, subject to the approval of the Commissioner of Indian Affairs.

(d) The tribal council shall set forth such other qualifications for judges of the Court of Indian Offenses as it deems appropriate, subject to the approval of the Commissioner.

(e) The tribal council shall also establish requirements for the training of judges of courts of Indian offenses as it deems appropriate, subject to the approval of the Commissioner.

COMMENTARY

There is nothing in the Indian Bill of Rights (25 U.S.C. 1302) which establishes qualifications for judges or, for that matter, even requires the establishment of such qualifications. However, the legislative history of the 1968 Civil Rights Act reveals that this subject was a matter of concern to Congress and this led to the requirement that the Model Code "establish proper qualifications for the office of judge of the court of Indian offenses." (25 U.S.C. 1311(3)). Thus section 129 above is mandatory for Code of Federal Regulations courts and—as is true for all other provisions for this code—voluntary for tribal courts.

Despite the fact that qualifications of judges were discussed in the hearings preceding the passage of the 1968 Civil Rights Act, the record is devoid of any suggestion on the qualifications which might be developed. Standards that are "proper" and attainable for one tribe may be not only improper but impossible of attainment for another. The diversity in tribal cultures, the variance in resources available to the individual tribes, and the

differences in the role played by judges in the tribal communities are too great to set meaningful standards which apply to all Indian courts alike.

Notwithstanding these comments, in order to comply with the statutory mandate and to provide a starting point for those tribes wishing to evaluate their present codes, section 129 above was drafted. This provision is a modified version of the 1974 edition of the Code of Federal Regulations (25 CFR 11.3(d)), which contains three requirements: (1) That the judge be a member of a tribe under the jurisdiction of the court in which he will preside; (2) that he has never been convicted of a felony; and (3) that he has not been convicted of a misdemeanor within the last year. In addition, the Code of Federal Regulations contains a conflict of interest provision from which section 129(b) above is adapted. (25 CFR 11.3(e)). Subsection (e) is also adapted from the current Code of Federal Regulations provision (25 CFR 11.3(b)) except that the principal responsibility for the selection of judges rests with the tribal council, subject to approval of the Commissioner of Indian Affairs. This sequence in the exercise of authority conforms with that set forth in subsections (a), (b), (d) and (e) of section 129 above.

In section 129, the Code of Federal Regulations requirement that the judge be a member of the tribe was dropped. Several tribes follow the practice of employing professional attorneys to sit on contested cases in their courts. A requirement of tribal membership would prohibit this practice. Also, it is not uncommon for a judge of one court to ask a judge of a neighboring tribe to sit on a case which may have divisive consequences in the tribe or where his own impartiality might be questioned, such as in election disputes or issues involving family matters in a tightly knit community. If a judge were required by the code to be a member of the tribe, this practice would be legally questionable.

Review of tribal codes discloses that many tribes track the Code of Federal Regulations provisions on judicial qualifications; others contain more restrictions as to education, character, age, or training. Still others do not state any qualifications at all, leaving it to the tribal council or the election process to select qualified judges.

Certainly all of these considerations are reasonable for some tribes but tribal diversity makes it impractical to set forth such detailed requirements for all Indian courts. For example, lack of a high school diploma is not uncommon among the older members of the Indian community. Thus a requirement involving formal educational attainment might well bar a highly qualified candidate. One of the most highly respected judges in the National American Indian Court Judges Association could not meet such an educational requirement.

Subsection (e) of section 129 was drafted to comply with the statutory requirement that the Model Code con-

tain a provision for "the establishment of educational classes for the training of judges of court of Indian offenses." (25 U.S.C. 1311(4)).

In 1969 the National American Indian Court Judges Association was incorporated and in 1970 that Association undertook the establishment of a training program for all Indian court judges who cared to participate. Much of this endeavor was financed by grants from the Law Enforcement Assistance Agency; the Bureau of Indian Affairs lent one of its law and order specialists to the project for one year; and in 1973 and 1974 various moneys were funneled to that association by the Bureau of Indian Affairs on the basis of contracts for the development of training projects in selected areas of law. Thus since 1970 both the Department of the Interior and the Department of Justice have encouraged and contributed to the financing of a judicial training program which was developed and operated by the Indian people themselves. The Association's program involves the skills of professional attorneys and law professors and encompasses frequent training programs in selected regions scattered throughout the western half of the United States.

In view of this program, it is recommended that tribes consider requiring in their codes that candidates for judicial office declare their willingness to attend available training programs if they are elected or appointed to office. However, even this requirement presents difficulties which the tribe should consider. Traveling to and from these training programs can be expensive. The pay of most Indian court judges is simply not adequate to cover these expenses and thus provision should be made in the tribal budget (whether from tribal or federal funds) to cover the costs of attending these training programs. Even then many judges may find it impossible to attend. With the exception of the larger tribes, most judges sit only part-time. Their principal means of income is thus derived from other employment, often from jobs such as cattle ranching where they frequently cannot get away for the three or four days necessary to reach the site of the training program and return home.

In considering such a code requirement the tribes should weigh the value to be derived by paying the costs for their judges to attend these training sessions. By communicating with other judges and observing trial procedures at such training sessions a judge acquires skill and gains self-confidence in his job. This skill and confidence is all the more necessary as the jurisdictional reach of Indian courts expands and the presence of professional attorneys in them increases.

APPENDIX OF OPTIONAL FORMS

The following forms have been prepared for use in criminal proceedings by those tribes which presently may not have any forms of their own. They are derived largely from the type used in federal district courts but they have been simplified and, in some

cases, substantially altered to conform more closely with the format currently being followed by some tribes and which are particularly well drafted.

Substantively, the following forms are entirely consistent with the requirements of the Indian Bill of Rights but their use is in no way mandatory. As long as they contain essentially the same information now provided in them, tribes may alter them where desired in order to meet the needs of any particular reservation.

It should be noted that with the use of any forms written in the English language some accommodation should be made for the defendant who does not understand English. This is particularly important in the case of Form 7 (Acknowledgement of Rights) in which the defendant swears that he understands the contents of the form. It is suggested that if another person is used to translate in such a case then the translator himself should sign the form at the bottom and certify that he has read the document to the defendant in his native language and that the defendant understood its contents.

FORM NO. 1. COMPLAINT

TRIBAL COURT OF _____ TRIBE

_____ Tribe v. _____
(name of accused)

Criminal Complaint No. _____

The undersigned complainant swears that:
On or about _____, 19__ at _____
(date) (location of
incident), within the jurisdiction of this
Court, _____ did
(name or description of accused)

(description of incident)

in violation of Section _____ of the Code of
Law and Order of the _____ Tribe.

(signature of complainant)

(date)

Sworn to before me and signed in my
presence:

(date)

(Tribal Judge or other
individual designated by
the Chief Judge)

FORM NO. 2. ARREST WARRANT

TRIBAL COURT OF _____ TRIBE

Warrant of Arrest Case No. _____

_____ Tribe v. _____
(name of accused)

TO ANY TRIBAL POLICE OFFICER OR
OTHER AUTHORIZED LAW ENFORCEMENT
OFFICER:

You are hereby commanded to arrest
_____ and forthwith bring
(name of accused)
him (her) before any Judge of the _____
Tribal Court to answer to a complaint charging him (her) with _____

(describe offense)

in violation of Section _____ of the Code of
Law and Order of the _____ Tribe.

(date)

(signature of judge)

NOTICES

RETURN

Received this Warrant of Arrest on
19__ and executed it by arrest-
ing the above-named accused at _____
(location)

on _____
(date of arrest)
19__, at (AM) (PM) and bringing
him(her) before Judge _____ of the
Tribal Court of _____
(date)

at _____ (AM) (PM)

(date)

(signature and title of
arresting officer)

FORM No. 3. SUMMONS

TRIBAL COURT OF _____ TRIBE

Tribe v. _____

(name of accused)

Summons Case No. _____

TO: _____
(name of accused)

YOU ARE HEREBY SUMMONED to appear
before Judge _____ of the Tribal
Court of the _____ Tribe at _____
(location)

on _____, 19__ at
of court) _____ (date)

_____ to answer to a complaint
(time)

charging you with _____
(description of charge)

on or about _____ at _____
(date)

in violation of Section
(location of offense)

of the Code of Law and Order of
the _____ Tribe.

(date) (signature of Judge or
police officer)

This Summons was received by me on
above-described, 19__

(signature of accused)

FORM No. 4. SEARCH WARRANT

TRIBAL COURT OF _____ TRIBE
Warrant to Search

TO ANY TRIBAL POLICE OFFICER OR
OTHER AUTHORIZED LAW ENFORCEMENT
OFFICER:

Sworn statement having been filed with me
by _____ charging that
(name of person requesting
the warrant)

(s) he has reason to believe that on the prem-
ises known as _____ lo-
(address or description of
property)

cated within the jurisdiction of this court,
there is located certain seizable property,
namely, _____ and as
(describe property to be
seized)

I am satisfied that there is probable cause to
believe that such property is located as
above-described,

YOU ARE HEREBY COMMANDED to
search the premises named above for the
property specified and to serve this Warrant,
and if the property is found there to seize it
and bring it forthwith before this Court.

(date) (signature of judge)

RETURN

Received this Warrant to Search on
19__ and executed it on
(date)

19__, at (AM) (PM) and
(date)

seized the following property: _____

(describe property seized)

(date) (signature of officer)

FORM No. 5. APPEARANCE BOND

TRIBAL COURT OF _____ TRIBE

Tribe v. _____
(name of accused)

Appearance Bond Case No. _____

The defendant, PROMISES AND AGREES:
That if the defendant fails to appear per-
sonally before the Tribal Court of _____
Tribe at _____ on _____, 19__, and

there to answer to a complaint filed against
him or her, and to appear at such other
times as may be ordered by the Court until
final disposition of this case, then the de-
fendant shall pay a fine of \$ _____ or shall
forfeit \$ _____ deposited as a personal bond.
If the defendant does appear at all times so
required then this bond shall be void.

Signed this day of _____, 19__

(signature and address of defendant)

Signed and acknowledged before me on
_____, 19__

(signature of judge)

FORM No. 6. SUBPOENA

TRIBAL COURT OF _____ TRIBE

Tribe v. _____
(name of accused)

Subpoena Case No. _____

TO _____
(name of subpoenaed witness)

YOU ARE HEREBY COMMANDED to ap-
pear in the Tribal Court of _____ Tribe
at _____ on _____, 19__ at
(time) _____ (date)

_____ to testify in the
(location of the court)
case of _____ Tribe v. _____
(name of accused)

This Subpoena is issued upon the request
of _____
(specify either the tribe or the defendant)

Failure to obey this Subpoena makes you
liable for prosecution for contempt of Court.

(date)

(signature of judge)

FORM No. 7. ACKNOWLEDGEMENT OF RIGHTS

TRIBAL COURT OF _____ TRIBE

Tribe v. _____
(name of accused)

Acknowledgement of Rights Case No. _____

I hereby acknowledge that I have read and
had explained to me the following matters
and that I understand them:

(1) I am charged with _____ in vi-
olation of Section _____ of the Code of
Law and Order of the _____ Tribe. The
maximum sentence for a conviction of this
charge is _____

(2) I have the following rights:

a) The right to remain silent and make
no statement whatsoever, unless I choose to
do so.

b) The right to be tried by a jury if I so
choose. [Before inserting this see the Com-
mentary to Section 124 of the Code.]

c) The right to be represented by coun-
sel at my own expense and to have the op-
portunity to obtain and consult with
counsel. I understand, however, that the

Tribe has no obligation to provide
me with counsel.

(date)

(signature of accused)

FORM No. 8. JUDGMENT AND COMMITMENT

TRIBAL COURT OF _____ TRIBE

Tribe v. _____
(name of accused)

Judgment and Commitment Case
No. _____

IT IS ADJUDGED on this day that the
above-named defendant has been found
guilty of _____ in viola-
(description of offense)

tion of Section _____ of the Code of Law
and Order of the _____ Tribe, and
therefore:

IT IS ORDERED that the defendant is
sentenced to _____
(description of sentence, in-
cluding length of jail sentence and identity

of jail, probation, fine, etc.)

(date)

(signature of judge)

[FR Doc. 75-9559 Filed 4-11-75; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CRANBERRIES GROWN IN THE STATES
OF MASSACHUSETTS, RHODE ISLAND,
CONNECTICUT, NEW JERSEY, WISCON-
SIN, MICHIGAN, MINNESOTA, OREGON,
WASHINGTON, AND LONG ISLAND IN
THE STATE OF NEW YORK

Order Directing That a Referendum Be
Conducted; Determination of Represent-
ative Period for Voter Eligibility; and
Designation of Referendum Agents To
Conduct the Referendum

Pursuant to the applicable provisions
of the marketing agreement, as amend-
ed, and Order No. 929, as amended (7
CFR Part 929), and the applicable pro-
visions of the Agricultural Marketing
Agreement Act of 1937, as amended (7
U.S.C. 601-674), it is hereby directed
that a referendum be conducted within
the period May 1 through May 31, 1975,
among the growers who, during the pe-
riod September 1, 1974, through April 30,
1975 (which period is hereby deter-
mined to be a representative period for
the purposes of such referendum), were
engaged, in the States of Massachu-
setts, Rhode Island, Connecticut, New
Jersey, Wisconsin, Michigan, Minne-
sota, Oregon, Washington, and Long Is-
land in the State of New York, in the
production of cranberries for market to
ascertain whether such growers favor
the continuance of said amended mar-
keting order. George B. Dever, Jr. and
Robert W. Forney, Fruit and Vegetable
Division, Agricultural Marketing Ser-
vice, United States Department of Agri-
culture, are hereby designated as refer-
endum agents of the Secretary of
Agriculture to conduct said referendum.
The procedure applicable to the referen-
dum shall be the "Procedure for the

Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended (7 CFR 900.400 *et seq.*).

Copies of the text of the aforesaid amended marketing order may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division, Agricultural Mar-

keting Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees.

Dated: April 9, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75-9679 Filed 4-11-75;8:45 am]

Animal and Plant Health Inspection Service HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the lists (39 FR 41998 and 40 FR 6519) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 *et seq.*), and which use humane methods of slaughter and incidental handling of livestock are hereby amended as indicated in the following table listing species at additional establishments and an additional species at a previously listed establishment that have been reported as being slaughtered and handled by humane methods.

Establishments slaughtering humanely

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equine
Wayne H. Hoffman and Son	4090	*	*	*	*	*	*
Oaklawn Grain and Feed, Inc.	7157					*	
Hobson's Meat Slaughter and Processing	7274	*					
R. G. Gunnoe Farms, Inc.	8392					*	
Scott Meat Packers, Inc.	9160	*	*	*	*	*	*
New establishments reported: 5.							
Mark's Meat Co.	9265			*			
Species Added: 1.							

Done at Washington, D.C., on: April 7, 1975.

F. J. MULHERN,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc.75-9546 Filed 4-11-75;8:45 am]

Farmers Home Administration

[Notice of Designation No. A186]

ARKANSAS

Designation of Emergency Area

The Secretary of Agriculture has found that a general need for agricultural credit exists in Desha County, Arkansas, as a result of a natural disaster consisting of excessive rainfall, flooding, and below normal temperatures from August 26 to September 2, 1974, and excessive rainfall from October 15 to November 20, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor David H. Pryor that such designation be made.

Applications for Emergency loans must be received by this Department no later than May 27, 1975, for physical losses and December 29, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public

interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 8th day of April, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-9585 Filed 4-11-75;8:45 am]

[Notice of Designation No. A187]

COLORADO

Designation of Emergency Area

The Secretary of Agriculture has found that a general need for agricultural credit exists in Las Animas County, Colorado, as a result of a natural disaster consisting of drought May 1 through September 30, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of former Governor John D. Vanderhoof that such designation be made.

Applications for Emergency loans must be received by this Department no later than May 27, 1975, for physical

losses and December 29, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 8th day of April, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-9586 Filed 4-11-75;8:45 am]

[Notice of Designation No. A082, Amdt. 3]

MISSOURI

Designation of Emergency Area

The Secretary of Agriculture has found that an additional general need for agricultural credit exists in Stoddard County, Missouri, as a result of a natural disaster consisting of a killing frost October 1 and 2, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Christopher S. Bond that such designation be made.

Applications for Emergency loans must be received by this Department no later than May 27, 1975, for physical losses and December 29, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 8th day of April 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-9587 Filed 4-11-75;8:45 am]

[Notice of Designation No. A096, Amdt. 1]

TEXAS

Designation of Emergency Area

The Secretary of Agriculture has found that an additional general need for agricultural credit exists in Deaf Smith County, Texas, as a result of a natural disaster consisting of cold weather August 28 through October 31, excessive rainfall September 16 through October 31, and an early freeze October 8 and 9, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law

93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than May 27, 1975, for physical losses and December 29, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 8th day of April, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-9588 Filed 4-11-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, May 13, 1975 at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) (Supp. III, 1973) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Review of past year's effort, including report on the work programs dealing with safeguards, foreign availability, performance

characteristics, technology transfer, and licensing procedures.

(4) Discussion of work program for the coming twelve months.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1974, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Central Reference and Records Inspection Facility, Room 7043, U.S. Department of Commerce.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/967-4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in *Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al.*, September 10, 1974 as amended, September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the *FEDERAL REGISTER* (40 FR 2243, appearing in the issue of January 10, 1975).

Dated: April 9, 1975.

RAUER H. MEYER,
Director, Office of Export Administration,
Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.75-9652 Filed 4-11-75;8:45 am]

National Oceanic and Atmospheric Administration

ENDANGERED SPECIES

Receipt of Permit Application for Scientific Purposes

Notice is hereby given that the following applicants have applied in due form for a permit to take endangered species for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the NMFS Regulations Governing Endangered Fish or Wildlife Permits (50 CFR 222) as published in the November 27, 1974 *FEDERAL REGISTER* at page 41375.

Douglas Wartzok and G. Carleton Ray, Department of Pathobiology, The Johns Hopkins University, 615 North Wolfe Street, Baltimore, Maryland 21205, have applied to take, by tagging, fifty (50) bowhead whales (*Balaena mysticetus*) for the purpose of scientific research.

The whales will be tagged by the applicants, by means of implantable radio transmitters, and tracked from ships, airplanes and fixed ground stations. The proposed research will be conducted, over a three-year period, in the areas of the Bering, Chukchi, and Beaufort Seas.

The radio tags will be implantable projectiles which can be attached to the animals from distances of up to 50 meters. The transmitter and battery pack will be about 1.5 by 20 centimeters, and will be buried in the blubber of the whales with a flexible antenna projecting outwards about 45 centimeters. The projectile radio tags will be fired into the whales, by means of a gun, from aircraft or boats.

The proposed research is directed towards a determination of the distribution, abundance and movements of bowhead whales in the area under consideration, and the influence of sea ice on these factors.

The applicants have submitted a separate application for a permit, to conduct the proposed research, under the Marine Mammal Protection Act of 1972.

Documents submitted in connection with the above application are available for review at the following locations: Office of the Director, National Marine Fisheries Service, Washington, D.C., 20235, and the Offices of the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930 and the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before May 15, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicants and do not necessarily reflect

the views of the National Marine Fisheries Service.

Dated: April 9, 1975.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.
[FR Doc. 75-9594 Filed 4-11-75; 8:45 am]

Office of the Secretary

[DOO 25-2; Amdt. 1]

MARITIME ADMINISTRATION

Organization and Authority

This order, effective March 20, 1975, amends the material appearing at 38 FR 30757 of November 7, 1973.

Department Organization Order 25-2, dated October 23, 1973, is hereby amended as follows:

1. SECTION 10. *Assistant Administrator for Commercial Development*. Paragraph .05, the Office of Ports and Intermodal Systems, is renamed "Office of Port and Intermodal Development."

2. The organization chart of the Maritime Administration is amended by changing the Office of Ports and Intermodal Systems to "Office of Port and Intermodal Development," under the box headed Assistant Administrator for Commercial Development.

ROBERT J. BLACKWELL,
Assistant Secretary for
Maritime Affairs.

Approved: GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for
Administration.

[FR Doc. 75-9617 Filed 4-11-75; 8:45 am]

[DOO 30-3B; Amdt. 1]

PATENT AND TRADEMARK OFFICE

Authority and Organization

This order, effective January 2, 1975, amends the material appearing at 40 FR 3627 of January 23, 1975.

Department Organization Order 30-3B, dated December 31, 1974, is hereby amended as follows:

1. The name "Patent Office" and the title "Commissioner of Patents" appearing in this order are changed, respectively, to read "Patent and Trademark Office" and "Commissioner of Patents and Trademarks."

2. SECTION 3. *Office of the Commissioner*. Paragraph a. is changed to read as follows:

"a. The Deputy Commissioner shall assist the Commissioner in the direction of the Patent and Trademark Office and shall perform the duties of the Commissioner in the latter's absence."

3. The organization chart, attached to this amendment, reflects the changed name "Patent and Trademark Office" and title "Commissioner of Patents and Trademarks" and supersedes the organization chart dated December 31, 1974. A copy of the organization chart is attached to the original of this document

on file in the Office of the Federal Register.

C. MARSHALL DANN,
Commissioner of Patents
and Trademarks.

DAVID B. CHANG,
Acting Assistant Secretary for
Science and Technology.

Approved: GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary
for Administration.

[FR Doc. 75-9619 Filed 4-11-75; 8:45 am]

[DOO 30-3A]

PATENT AND TRADEMARK OFFICE

Authority and Organization

This order, effective January 2, 1975, supersedes the material appearing at 38 FR 1068 of January 8, 1973; and 40 FR 3236 of January 20, 1975.

SECTION 1. *Purpose*. .01 This order delegates authority to the Commissioner of Patents and Trademarks and prescribes the functions of the Patent and Trademark Office.

.02 This revision of the order incorporates changes in nomenclature required by recent legislation.

SEC. 2. *Status and line of authority*.

.01 The Patent and Trademark Office is hereby continued as a primary operating unit of the Department of Commerce. First established by the general revision of patent laws enacted by Congress July 4, 1836 (5 Stat. 117) as the Patent Office, an independent bureau under the direction of a Commissioner of Patents, it became a part of the Department of Commerce by Executive Order of April 1, 1925, in accordance with the authority contained in the Act of February 14, 1903 (32 Stat. 830). When the patent laws were codified as Title 35, United States Code, effective January 1, 1953, the Patent Office was continued as an office in the Department of Commerce. By Public Law 93-596, effective January 2, 1975, the name of the Patent Office was changed to "Patent and Trademark Office" and the Commissioner of Patents was designated as the "Commissioner of Patents and Trademarks."

.02 The Commissioner of Patents and Trademarks (hereinafter called the Commissioner), who is appointed by the President by and with the advice and consent of the Senate, shall be the head of the Patent and Trademark Office. He shall be principally assisted by a Deputy Commissioner, three Assistant Commissioners, whose titles and status are specified below, and a Solicitor. The Deputy Commissioner and the first two Assistant Commissioners are provided for by 35 U.S.C. 3, as amended by Public Law 93-601, January 2, 1975, and are appointed by the President by and with the advice and consent of the Senate.

a. The Deputy Commissioner.

b. The Assistant Commissioner for Patents (an Assistant Commissioner under 35 U.S.C. 3).

c. The Assistant Commissioner for Trademarks (an Assistant Commissioner under 35 U.S.C. 3).

d. The Assistant Commissioner for Administration.

.03 The Deputy Commissioner, or, in the event of a vacancy in that office, the Assistant Commissioner appointed under 35 U.S.C. 3 who is senior in date of appointment, shall act as Commissioner during a vacancy in that office. In the absence of the Commissioner, the Deputy Commissioner shall act as Commissioner. If the Deputy Commissioner is likewise absent or that office is vacant, one of the Assistant Commissioners appointed under 35 U.S.C. 3 or the Solicitor of the Patent and Trademark Office, or the Assistant Commissioner for Administration shall act as Commissioner in an order of precedence prescribed by the Commissioner.

.04 The Commissioner shall report and be responsible to the Assistant Secretary for Science and Technology.

SEC. 3. *Delegation of Authority*. .01 Pursuant to the authority vested in the Secretary of Commerce by 35 U.S.C. 3 and Reorganization Plan No. 5 of 1950, the functions of the Patent and Trademark Office and its officers specified in Title 35 of the U.S. Code, as amended, are hereby vested in the Secretary of Commerce and redelegated to the Commissioner of Patents and Trademarks.

.02 Pursuant to the authority vested in the Secretary of Commerce by law, the Commissioner of Patents and Trademarks is hereby delegated authority to perform the following functions vested in the Secretary of Commerce:

a. The functions in Title 15, Chapter 22 of the U.S. Code, which pertain to trademarks.

b. The functions in Executive Order 10096 (except section 5) and Executive Order 10930, in so far as these functions relate to determining the ownership of patents and rights to inventions made by Government employees.

c. The functions in 42 U.S.C. 2181 and 2182, which pertain to inventions relating to atomic weapons, and in 42 U.S.C. 2457, which pertain to property rights in inventions made in performance of work under contract for the National Aeronautics and Space Administration.

d. Such functions under other authorities of the Secretary of Commerce as are applicable to performing the functions assigned in this order.

.03 Exercise of the functions delegated in paragraphs .01 and .02 of this section shall be subject to such policies or directives as may be prescribed by the Secretary of Commerce or the Assistant Secretary for Science and Technology.

.04 The Commissioner of Patents and Trademarks may, except as precluded by law or regulation, redelegate his authority to employees of the Patent and Trademark Office subject to such conditions in the exercise of the delegated authority as he may prescribe.

Sec. 4. Functions. The Patent and Trademark Office shall perform the following functions:

.01 Examine applications for patent to determine if they meet the requirements of law for the issuance of patents and, upon such determination, grant patents.

.02 Administer special laws and regulations as to secrecy of certain inventions, licenses for foreign filing, and those relating to atomic energy and space technology.

.03 Decide the ownership of patents and the rights to inventions made by Government employees, as provided by Executive Orders 10096 and 10930.

.04 Provide for the publication, storage, dissemination, and exchange of patents and related documentation.

.05 Maintain systems and facilities providing appropriate access to U.S. and foreign patents and other technical literature for use of the examiners and the public.

.06 Examine applications for the registration of trademarks to determine their entitlement to registration under the law; give public notice of trademarks allowed for registration and publish registered trademarks; maintain the Principal and Supplemental registers of trademark registrations, and provide for public access to such registers and related trademark records.

.07 Issue patents and certificates of trademark registration.

.08 Reissue defective patents and issue certificates of correction of patents and trademark registrations.

.09 Maintain records as to proprietary interests in patents and trademark registrations and applications therefor.

.10 Carry on or authorize studies and programs, separately or in coordination with other United States, foreign, and international agencies, regarding domestic and international patent and trademark law.

.11 Perform other functions required, or which the Commissioner deems necessary and proper, in exercising the authority delegated herein.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary
for Administration.

[FR Doc. 75-9618 Filed 4-11-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Dates: May 14-15, 1975.

Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

Agenda: The Committee will consider the current status of influenza vaccine in the prevention and control of epidemic influenza in the United States. It will also continue its regular review of recommendations on the use of vaccines in public health practice.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: April 4, 1975.

WILLIAM C. WATSON, JR.,
Assistant Director for Operations,
Center for Disease Control.

[FR Doc. 75-9780 Filed 4-11-75; 8:45 am]

Food and Drug Administration PANEL ON REVIEW OF HEMORRHOIDAL DRUGS Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App. I), the Food and Drug Administration announces the renewal of the Panel on Review of Hemorrhoidal Drugs by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1975.

Authority for this committee will expire April 16, 1977, unless the Secretary formally determines that continuance is in the public interest.

Dated: April 8, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 75-9592 Filed 4-11-75; 8:45 am]

PANEL ON REVIEW OF OPHTHALMIC DRUGS Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App. I), the Food and Drug Administration announces the renewal of the Panel on Review of Ophthalmic Drugs by the Secretary, Department of Health, Education, and Welfare, for an additional period of 2 years beyond April 16, 1975.

Authority for this committee will expire April 16, 1977, unless the Secretary

formally determines that continuance is in the public interest.

Dated: April 8, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 75-9593 Filed 4-11-75; 8:45 am]

PLASTIC BOTTLES FOR CARBONATED BEVERAGES AND BEER

Availability of Draft Environmental Impact Statement

The Commissioner of Food and Drugs issued a notice that was published in the FEDERAL REGISTER of September 7, 1973 (38 FR 24391) in which he concluded that an environmental impact statement is necessary for FDA actions on food additive petitions for substances intended for use in the fabrication of plastic bottles for carbonated beverages and beer.

Notice is hereby given that a document entitled, "Draft Environmental Impact Statement—Plastic Bottles for Carbonated Beverages and Beer" has been prepared and issued by the Food and Drug Administration. Copies of the statement are available from the Office of the Assistant Commissioner for Public Affairs, Rm. 15B-32, or the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

All interested persons are requested to submit comments in quintuplicate on this draft statement to the Hearing Clerk at the above address on or before June 13, 1975. All comments received shall be available for public inspection during working hours, Monday through Friday at the office of the Hearing Clerk.

This notice is issued pursuant to provisions of the National Environmental Policy Act of 1969, Pub. L. 91-190 (sec. 102(2)(C), 83 Stat. 853; 42 U.S.C. 4332), the Council on Environmental Quality guidelines published in the FEDERAL REGISTER of August 1, 1973 (38 FR 20550), Executive Order 11514 of March 5, 1970 (35 FR 4247), the Food and Drug Administration's environmental regulations (21 CFR Part 6), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: April 2, 1975.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 75-9591 Filed 4-11-75; 8:45 am]

Health Resources Administration HEALTH SERVICES DEVELOPMENTAL GRANTS STUDY SECTION

Notice of Meeting; Correction

In FR Doc. 75-7476 appearing at page 13018 in the FEDERAL REGISTER of March 24, 1975, the place and time should be changed as indicated:

HEALTH SERVICES DEVELOPMENTAL GRANTS STUDY SECTION

April 23-25, 1975, 5 p.m.
Open April 23, 5 p.m. to adjournment, Montgomery Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland.
Closed April 24-25, 9 a.m., Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland.

The agenda for this meeting remains unchanged.

Dated: April 7, 1975.

DANIEL F. WHITESIDE, D.D.S.,
Associate Administrator for
Operations and Management,

[FR Doc.75-9601 Filed 4-11-75; 8:45 am]

Health Services Administration

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE Meeting

Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix I), the Administrator, Health Services Administration, announces the meeting dates and other required information for the following National Advisory body scheduled to assemble during the month of May 1975:

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

May 13-16, 1975, 9:00 a.m., Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Open on May 13, 9:00 a.m. to 10:00 a.m. Closed remainder of meeting.

Purpose. The committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

Agenda. During the open portion of the meeting, the committee will receive Opening Remarks. During the closed session, the committee will be reviewing research grant applications relating to the program areas of maternal and child health. Therefore, that portion of the meeting will not be open to the public, in accordance with the provisions set forth in section 552(b) (4), (5), and (6), Title 5, U.S. Code and the Determination by the Administrator, Health Services Administration, pursuant to Public Law 92-463, section 10(d).

Anyone wishing to attend, obtain a roster of members or other relevant information should contact Mrs. Gloria Wackernah, Parklawn Building, Room 12A-08, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-2190.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation.

Dated: April 8, 1975.

ANDREW J. CARDINAL,
Associate Administrator for
Management, Health Services
Administration.

[FR Doc.75-9602 Filed 4-11-75; 8:45 am]

Office of the Assistant Secretary for Health PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Biomedical Research Panel on April 28 and 29, 1975, in the Cayo Biscayne Room, Royal Biscayne Hotel, 550 Ocean Drive, Key Biscayne, Florida.

The meeting will be open to the public from 10 a.m. to 5 p.m. on April 28 and from 9 a.m. to 5 p.m. on April 29. The meeting will be closed from 9 a.m. until 10 a.m. on April 28, following which the Panel will deal with issues pertaining to the assignment and implementation of studies previously identified by the Panel as being germane to its Congressional mandate. The afternoon of April 28 will be given over to testimony from invited witnesses bearing on broad aspects of the interplay between federal and extra-federal institutions in the genesis, funding, and execution of biomedical and behavioral research.

The morning of April 29 will be concerned with delineation and discussion of prospective tasks identified as falling within the Panel's mandate, as well as related administrative issues. The afternoon of April 29 will be devoted to additional testimony from invited witnesses representing medical schools of this country, directed primarily toward the goal of informing the Panel as to their perceptions of the current impact of federal research support on their institutions. Attendance by the public will be limited to space available.

In accordance with the provision set forth in Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I) the meeting will be closed to the public from 9 a.m. to 10 a.m. on April 28 for the review, discussion, and evaluation of the qualifications and performance of personnel of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration and the internal expression of views by Panel members with regard to such qualifications and performance.

All requests for information, including the roster of the Panel members should be directed to Ms. Anne Ballard (301-496-7526), Room 125, Westwood Building, 9000 Rockville Pike, Bethesda, Maryland 20014.

Substantive program information will be provided by Dr. Charles U. Lowe, Executive Director of the Panel (301-496-5035), Building 31B, Room 4B-59, 9000 Rockville Pike, Bethesda, Maryland 20014.

Dated: April 3, 1975.

CHARLES U. LOWE,
Executive Director.

[FR Doc.75-9654 Filed 4-11-75; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-264; FDAA-461-DR]

KENTUCKY

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Kentucky, dated March 29, 1975, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1975:

The Counties of:

Ballard
Livingston

McCracken

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 5, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc.75-9606 Filed 4-11-75; 8:45 am]

[Docket No. NFD-262; FDAA-3010-EM]

MISSISSIPPI

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 4, 1975, the President declared an emergency as follows:

I have determined that the impact of heavy rains and flooding on the State of Mississippi, beginning about March 24, 1975, is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Mississippi. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, HUD Region IV, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas in the State of Mississippi to have been adversely affected by this declared emergency:

The Counties of:

Issaquena
Yazoo

Warren
Sharkey

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 4, 1975.

WILLIAM E. CROCKETT,
Acting Administrator, Federal
Disaster Assistance Adminis-
tration.

[FR Doc.75-9607 Filed 4-11-75;8:45 am]

[FDAA-459-DR; Docket No. NFD 263]

TENNESSEE

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Tennessee, dated March 24, 1975, and amended on March 27, 1975, March 28, 1975, March 31, 1975, and April 2, 1975, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 22, 1975:

The County of:

Clay

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 4, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc.75-9609 Filed 4-11-75;8:45 am]

[FDAA-459-DR; Docket No. NFD-265]

TENNESSEE

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Tennessee, dated March 24, 1975, and amended on March 27, 1975, March 28, 1975, March 31, 1975, April 2, 1975, and April 4, 1975, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 22, 1975:

The Counties of:

Gibson	Tipton
Stewart	Wayne

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 7, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc.75-9608 Filed 4-11-75;8:45 am]

Federal Insurance Administration

[Docket No. N-75-283]

NATIONAL FLOOD INSURANCE PROGRAM

Limits of Available Insurance Coverage

The following guidelines present the current views of the Federal Insurance Administration with respect to the mandatory purchase of flood insurance under section 102 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234,

December 31, 1973, hereinafter referred to as the "Act"), and are in addition to, and do not supersede, the Guidelines published on July 17, 1974, in the FEDERAL REGISTER at 39 FR 26186-93. Where the provisions of the earlier Guidelines may conflict with this notice, the provisions of this notice apply.

The National Flood Insurance Program is authorized by 42 U.S.C. 4001-4128. The purpose of these guidelines is to provide additional guidance to the many Federal agencies and private lending institutions responsible for compliance with the Act's flood insurance purchase requirements, which became effective on March 2, 1974.

The Act requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally supervised, approved, regulated, or insured financial assistance for acquisition or construction purposes in an identified Special Flood Hazard Area that is located within any community currently participating in the National Flood Insurance Program. The participation of the community is mandatory in order for individuals or the community to receive such assistance for acquisition or construction purposes in the identified Special Flood Hazard Area on and after July 1, 1975, unless the Special Flood Hazard Area was identified after June 30, 1974. Then the requirement is imposed one year after that later date.

Under both paragraphs (a) and (b) of section 102 of the Act, the maximum coverage made available with respect to the particular type of property under the National Flood Insurance Program provides a limitation on the amount of insurance required under that section. Further, no insurance purchase requirement exists for certain kinds of properties.

The following are examples of structures and contents for which coverage is not available for the purposes of the Act:

1. Retaining walls, seawalls, bulk heads, wharves, piers, docks, except as these structures are an integral part of an insurable structure.
2. Fences, outdoor swimming pools, bridges, other structures located on or partially over water.
3. Personal property in the open, including building materials not within an enclosed structure located on the described premises or adjacent thereto, intended for use in the construction, alteration, or repair of such structure.
4. Real property, including lawns, trees, shrubs or plants, growing crops, or livestock, underground structures or underground equipment, and those portions of walks, driveways, and other paved surfaces outside the foundation walls of the structure.
5. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers, or records, numismatic or philatelic property.
6. Animals, birds, fish, aircraft, motor vehicles (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended; (42 U.S.C. 4001-4128) and Secretary's delegation of authority to the Federal Insurance Administrator, 34 FR 2630, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 8, 1975.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.75-9683 Filed 4-11-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration AVIATION REVIEW CONFERENCE

Notice of Meeting

The purpose of this notice is to announce the seventh annual Aviation Review Conference. (The establishment of annual consultative planning procedures was originally documented and publicized in 33 FR 19205, dated December 24, 1968, and 35 FR 17798, dated November 19, 1970.)

The Department of Transportation announces that the seventh annual Aviation Review Conference will be held May 19, 20, and 21, 1975, at the Sheraton National Motor Hotel, Arlington, Virginia. On the first day, government spokesmen will discuss current activities and forecast future developments. On the second day, user panels will assess current aviation plans and the National Airspace System with the aviation community. The third day will focus on discussions of environmental issues.

It is also planned to have prominent luncheon speakers on Monday, May 19, and Tuesday, May 20. Details will be announced at a later date; however, a cost of seven dollars has been established for each luncheon.

The following proposed topics have been developed in meetings with representatives of government, industry, and user groups:

Topics:

- (1) FAA Plans and Policy
- (2) Aviation Forecasting
- (3) Aviation Economics
- (4) National Airspace System
- (5) Energy
- (6) Key Issues

The Department of Transportation invites comments on agenda topics.

These comments should be submitted not later than May 1, 1975, to:

Associate Administrator for Policy Development and Review, Attn: ASP-10
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

The National Aviation System Ten Year Plan will be available for purchase at the conference.

To receive a registration card for the seventh annual Aviation Review Conference and a reservation form for the luncheons, please write to the following

address giving: (1) name, (2) address, (3) company or affiliation:

Office of Aviation System Plans, Attn: ASP-10
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

THOMAS P. MESSIER,
Acting Director, Office of
Aviation System Plans.

[FR Doc. 75-9565 Filed 4-11-75; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27681]

AIR PANAMA INTERNACIONAL, S.A. PANAMA-MEXICO CITY-LOS ANGELES

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 28, 1975, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before April 18, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., April 8, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 75-9662 Filed 4-11-75; 8:45 am]

[Docket 26941]

BOSTON-TORONTO NONSTOP ROUTE PROCEEDING

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 4, 1975, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., April 8, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 75-9663 Filed 4-11-75; 8:45 am]

[Docket 25487]

BRIDGEPORT SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provision of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 18, 1975, at 10 a.m. (local time), in Room 1027,

Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., April 9, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 75-9666 Filed 4-11-75; 8:45 am]

[Docket 27698]

COMPAGNIE NATIONALE AIR FRANCE CANCUN, YUCATAN, MEXICO

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 29, 1975, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before April 18, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., April 8, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 75-9664 Filed 4-11-75; 8:45 am]

[Docket 18401]

REOPENED SERVICE TO OMAHA AND DES MOINES CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 28, 1975, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., April 8, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.
[FR Doc. 75-9665 Filed 4-11-75; 8:45 am]

[Order 75-4-46; Docket 26494; Agreement C.A.B. 25028, R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 2 of the Interna-

tional Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would amend certain fares within Africa to reflect introduction of Zambia/Mozambique service. The fares are combinable with fares to/from U.S. points and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.14:

It is not found that the following resolutions, incorporated in Agreement C.A.B. 25028 as indicated, and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA resolution
25028:	
R-1	200 (Mail 237) 052 within Africa).
R-2	200 (Mail 237) 062 (within Africa).
R-3	200 (Mail 237) 072b (within Africa).

Accordingly, It is ordered, That: Agreement C.A.B. 25028, R-1 through R-3, be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.
[FR Doc. 75-9667 Filed 4-11-75; 8:45 am]

[Docket 26494; Agreement C.A.B. 24822, R-1 through R-19; Order 75-3-98]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to South Pacific Air Fares; Order Correction

In FR Doc. 75-8430 on page 14792 in the FEDERAL REGISTER of Wednesday, April 2, 1975, the first line of the table on page 14793, which reads "R-1-000b", should read "R-1-001b".

[Docket 25280; Agreement C.A.B. 25029, R-1 through R-6; Order 75-4-14]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order Correction

In FR Doc. 75-9112, appearing at page 15930, in the issue for Tuesday, April 8,

1975, most of the first paragraph was omitted. It should read as follows: "Issued under delegated authority April 2, 1975."

[Order 75-3-100; Docket 26494; Agreement C.A.B. 24818, R-1 through R-13; Agreement C.A.B. 24821; R-1 through R-4; Agreement C.A.B. 24886; Agreement C.A.B. 24926; Agreement C.A.B. 24982; Agreement C.A.B. 24996, R-1 through R-4]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

North/Central Pacific and Intra-Pacific Air Fares; Order Approving Agreement

Correction

In FR Doc. 75-8431, on page 14796 of the Federal Register of Wednesday, April 2, 1975, the following corrections should be made:

1. On page 14798, in the second table of paragraph 1, in Agreement R-5 the IATA No. which now reads "004", should read "004f" and in Agreement R-7 the IATA No. which reads "022" should read "022e".

2. On page 14799, in the table of paragraph 6, the first word of Agreement R-29, now reading "TC 328-", should read "TC3 28-".

CIVIL SERVICE COMMISSION DEPARTMENT OF THE TREASURY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, U.S. Customs Service, Legal Division.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9576 Filed 4-11-75; 8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner (Chief of Staff), Office of Deputy Commissioner, Immigration and Naturalization Service).

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9575 Filed 4-11-75; 8:45 am]

DEPARTMENT OF COMMERCE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service

Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Economic Development, Office of the Assistant Secretary for Economic Development, Economic Development Administration.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9566 Filed 4-11-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary for Regional Affairs, Office of the Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9574, Filed 4-11-75; 8:45 am]

EXPORT-IMPORT BANK OF THE UNITED STATES

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Export-Import Bank of the United States to fill by noncareer executive assignment in the excepted service the position of Vice President for Policy Analysis, Office of the President and Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9567 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Associate Assistant Administrator, Office of Oil and Gas, Energy Resource Development.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9568 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Administrator for International Energy Affairs, Office of the Assistant Administrator, International Energy Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9569 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Associate Assistant Administrator for Energy Importing Countries and Resources, International Energy Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9570 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Director, Office of Energy Conservation, Office of the Assistant Secretary—Energy and Minerals, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 75-9571 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Director, Office of Oil and Gas, Office of

the Assistant Secretary—Mineral Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant
to the Commissioners.*

[FR Doc.75-9572 Filed 4-11-75; 8:46 am]

FEDERAL ENERGY ADMINISTRATION

**Revocation of Authority To Make
Noncareer Executive Assignment**

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Associate Director, Office of Oil and Gas, Office of the Assistant Secretary for Mineral Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant to the
Commissioners.*

[FR Doc.75-9573 Filed 4-11-75; 8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

**CHEMICAL FORMULATIONS FOR
SPECIFIED CONSUMER PRODUCTS**

General Order for Submission

The Consumer Product Safety Commission hereby orders manufacturers of certain categories of consumer products (listed below) to complete and return the product ingredient questionnaire (CPSC Form No. 183 with instructions¹) no later than May 15, 1975 to Auerbach Associates, Inc., Philadelphia, Pennsylvania. Auerbach Associates, Inc., a private contractor, has been authorized by the Commission to collect the chemical formulation information called for in the questionnaire for Commission use in readily evaluating any real or potential hazards associated with the subject products or their composite ingredients.

Auerbach Associates, Inc., is legally required to hold any trade secret or proprietary information confidential. If a manufacturer believes that any information furnished in response to the questionnaire is trade secret or proprietary information, it should follow the instructions accompanying the questionnaire for claiming confidential treatment. Information claimed as trade secret or proprietary will be received and handled in a confidential manner. It will not be placed in a public file and will not initially be made available to the public on request. If the Commission receives a request for disclosure of the information, the determination whether to release or

not to release it would be based on the most recent judicial interpretation of the Freedom of Information Act at the time the request is received.

Those manufacturers who have already fully responded to the questionnaires sent to them by Auerbach Associates, Inc. are not subject to this general order.

The categories of consumer products covered by this general order are:

Cleaning Agents and Compounds (Soap, Cleanser, Laundry Detergent)
Dishwasher Detergent
Fuel for Chafing Dishes, Fondue Pots, and Similar Items
Paints, Varnish, Shellac, Rust Preventative, etc.
Flame Retardant Chemicals
Aerosols—Household
Water Softeners and conditioners
Chemical Deodorizers
Photographic Chemicals
Solvent Based Cleaning and Sanitizing Products (Cleaning Fluid, Spot Removers, etc.)
Rust Removers
Chemistry Sets
Fireworks
Swimming Pool Chemicals
Caustics, Lye, Drain Cleaners

Those manufacturers who are in doubt whether their products fall under the jurisdiction of the Commission are required to complete and submit the questionnaires (CPSC Form No. 183). The submission of data in doubtful cases does not waive a manufacturer's right to maintain that its products do not fall within the jurisdiction of the Commission. Assertions that products are not under the jurisdiction of the Commission or that jurisdiction is doubtful should accompany the submission.

Manufacturers are not required to complete the questionnaire as to products otherwise subject to this order which have been neither manufactured nor sold within the year prior to the date of this order.

The product ingredient questionnaire (CPSC Form No. 183) with instructions is required to be completed by the manufacturers subject to this order.

Those manufacturers who have not received the questionnaire or who have any questions about the subject of this general order, should contact: Ms. Lynn Neufeld, Auerbach Associates, Inc., 121 North Broad Street, Philadelphia, Pennsylvania 19107 (Area Code (215) 491-8333) or Mr. Irvin Weiss, Bureau of Biomedical Science, Consumer Product Safety Commission, Washington, D.C. 20207 (Area Code (301) 496-7766).

The general order is promulgated pursuant to section 27(b)(1) of the Consumer Product Safety Act. (15 U.S.C. 2076(b)(1)).

Dated: April 9, 1975.

SADY E. DUNN,
*Secretary, Consumer
Product Safety Commission.*

[FR Doc.75-9992 Filed 4-11-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 358-1]

COLORADO

**Notice of Approval of Program for Control
of Discharges of Pollutants to Navigable Waters**

Notice is given hereby that the U.S. Environmental Protection Agency has granted the State of Colorado's request for approval of its program for controlling discharges of pollutants to navigable waters in accordance with the National Pollutant Discharge Elimination System (NPDES), pursuant to section 402(b) of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251; the Act).

Section 402 of the Act establishes a permitting system, known as the National Pollutant Discharge Elimination System, under which the Administrator of the U.S. Environmental Protection Agency (EPA) may issue permits for the discharge of any pollutant, upon condition that the discharge meets the applicable requirements of the Act. Section 402(b) provides that any State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit such program to the Administrator. If the Administrator determines that the State has adequate authority to carry out the requirements of the Act, he shall approve the submitted program and suspend the issuance of permits as to those navigable waters subject to such program. Guidelines specifying procedural and other elements for State NPDES programs appear at 40 CFR Part 124 (as amended by 38 FR 18000, July 5, 1973, and 38 FR 19894, July 24, 1973).

On December 27, 1974, Colorado submitted a program for carrying out the NPDES. On January 30, 1975, EPA conducted a public hearing on the proposed approval in Denver, Colorado. After a thorough review of the Colorado program, the accompanying legal certification, and all comments submitted by the public during and following the public hearing, the Administrator determined that the State's authority was adequate to carry out the requirements of the Act, and so informed Governor Richard D. Lamm in a letter dated March 27, 1975.

As of March 28, 1975, the Colorado NPDES permit program is being administered by the Colorado Department of Health, 4210 East 11th Avenue, Denver, Colorado 80220 (telephone (303) 388-6111). Dr. Edward Dreyfus is the Executive Director of the Colorado Department of Health. The Colorado program is being administered in accordance with Colorado statutes and regulations and a Memorandum of Agreement between Colorado and the EPA Region VIII Office, 1860 Lincoln Street, Denver, Colorado 80203 (telephone (303) 837-3895). All pertinent documents are available for inspection at the Colorado State

¹ Filed as part of original document.

agency and EPA Regional Office at the addresses given above and EPA Headquarters in Room 3201, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

RICHARD H. JOHNSON,
Acting Assistant Administrator
for Enforcement.

APRIL 8, 1975.

[FR Doc.75-9562 Filed 4-11-75;8:43 am]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 8:30 a.m. on April 30 and May 1, 1975 in Conference Room 1101, West Tower, Environmental Protection Agency, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

The purpose of the meeting will be to discuss Drinking Water Strategy, draft State Program and Underground water regulations and other information items.

The meeting will be open to the public. Any member of the public wishing to attend or submit a written statement should contact the Acting Executive Secretary, William N. Long, Water Supply Division (WH-450), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, by April 24, 1975.

The telephone number is Area Code: 202/426-8847.

Dated: April 9, 1975.

JAMES L. AGEE,
Assistant Administrator for
Water and Hazardous Materials.

[FR Doc.75-9688 Filed 4-10-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION SOLAR HEATING AND COOLING PROGRAM

Interim Report to Congress

APRIL 10, 1975.

The Energy Research and Development Administration and the Department of Housing and Urban Development submitted to Congress on April 7, 1975, an interim report describing a plan for conducting nationwide solar heating and cooling demonstrations. The National Solar Heating and Cooling of Buildings Program is one element of the National Solar Energy Research, Development, and Demonstration Program. Authorizing legislation for these programs includes: The Solar Heating and Cooling Demonstration Act of 1974 (Pub. L. 93-409); The Energy Reorganization Act of 1974 (Pub. L. 93-438); The Solar Energy Research, Development, and Demonstration Act of 1974 (Pub. L. 93-473); and The Federal Non-Nuclear

Energy Research and Development Act of 1974 (Pub. L. 93-577).

The goal of the program is to stimulate a commercial capability to produce and distribute solar heating and cooling systems for use in residential and commercial buildings in an effort to reduce the demand on present fuel supplies. The plan calls for the demonstration of solar heating by late 1977 and the demonstration of combined solar heating and cooling by late 1979. A major objective is to provide consumers with prompt, reliable information on which they can evaluate whether the added benefits of solar heating and cooling are worth the extra cost when compared with conventional energy sources.

The demonstration program will be organized in a series of cycles to allow new ideas and new technologies to be fed into the demonstrations in later cycles. Solar energy systems and individual demonstration projects will be selected on the basis of competitive solicitations. Locations for these projects will be selected to provide a wide variety of climatic conditions in various types of communities around the nation. In general, project proposals will be solicited on a local basis from developers and builders who will have full responsibility to provide the land, construct the buildings, buy and install the solar systems, and market the product.

Under the plan, contracts would be awarded to provide available systems for immediate use in the demonstrations. Contracts would also be awarded to develop systems from currently available subsystems and to develop new systems that have a high potential for application of low-cost mass production techniques. Also, the development effort will include engineering studies and research and development on new subsystems, materials compatibility, heat transfer fluids and the development of advanced analytical tools and procedures.

The final number of units to be demonstrated will not be determined until the results of early work have been analyzed. However, three alternative levels have been examined to provide a preliminary range of estimates of units to be in place by 1979. The first level includes 350 residential units and 50 commercial units at a preliminary funding estimate of \$109 million over the Fiscal Years 1975 to 1979 period. The second level includes 1,000 residential units and 200 commercial units at an estimate of \$208 million and the third level calls for 2,000 residential units and 400 commercial units at an estimate of \$306 million.

Under the plan, Federal funding would be used in a variety of ways to stimulate research, development and demonstrations in support of the program goal. The intent of the plan is that the Government would support the long-term high risk activities essential to introduction and use of this technology until such activities have reached the stage at which

there is adequate incentive for private investment.

The plan was developed by an inter-agency task force led by the Energy Research and Development Administration (ERDA) and is designed to foster the policy and purpose of the Solar Heating and Cooling Demonstration Act of 1974.

ERDA has overall responsibility for management and coordination of the program. The Department of Housing and Urban Development (HUD) shares with ERDA responsibility for management and coordination of the residential demonstration program. ERDA will assume direct responsibility for managing the research and development on new and improved solar heating and cooling systems and subsystems and for managing and coordinating the commercial demonstration program. ERDA working with HUD will develop a data bank for the widespread dissemination of information on solar heating and cooling.

The Federal Energy Administration will support the demonstration by investigating possible constraints to the use of solar heating and cooling systems and making policy recommendations on incentives to remove these constraints. The National Aeronautics and Space Administration (NASA) will support ERDA and HUD responsibilities through testing, evaluation and integration of systems and subsystems as well as assistance in systems and subsystems development, as requested by ERDA. The Department of Defense will conduct a substantial number of residential and commercial demonstrations on military installations. Other Federal agencies will also play important supporting roles.

The interim report will be circulated widely to solar energy specialists and industry groups, and other interested parties for comment. Persons desiring to submit written comments on the Interim Report on the National Plan for Solar Heating and Cooling of Buildings, should submit them by May 1, 1975, to the Division of Solar Energy, Energy Research and Development Administration, Washington, D.C. 20545. Comments received by May 1, 1975, will be considered in the preparation of ERDA's June 30, 1975, report to Congress for a Solar Energy Research, Development and Demonstration Plan mandated by Pub. L. 93-473. Comments received after May 1, 1975, will be considered for incorporation in later iterations of this plan. Copies of the interim report may be obtained by writing to the ERDA Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37830, and requesting Document ERDA-23.

JOHN M. TEEM,
Assistant Administrator for Solar,
Geothermal, and Advanced Energy Systems.

[FR Doc.75-9834 Filed 4-11-75;10:55 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-342; Docket Nos. 20327, 20328; File Nos. 5218-C2-P-72, 7416-C2-P-72]

AIRSIGNAL INTERNATIONAL OF PITTSBURGH, PENNSYLVANIA, INC. AND ALLEGHENY MOBILE TELEPHONE CO., INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

1. The Commission has before it for consideration (a) an application filed February 11, 1972, by Airsignal International of Pittsburgh, Pennsylvania (Airsignal-Pittsburgh) for a construction permit to establish a new one-way paging station in the Domestic Public Land Mobile Radio Service (DPLMRS) at Pittsburgh, Pennsylvania on the 158.70 MHz guard band channel; (b) an application filed April 17, 1972, by Allegheny Mobile Telephone Co., Inc. (Allegheny) for a construction permit to add the base station frequency 158.70 MHz to its existing paging services at Pittsburgh, Pennsylvania; (c) Airsignal-Pittsburgh's Petition to Dismiss or Deny Allegheny's application filed May 24, 1972; (d) Allegheny's Opposition to Airsignal-Pittsburgh's petition, filed June 16, 1972; and (e) Airsignal-Pittsburgh's Reply filed July 5, 1972.

2. Airsignal-Pittsburgh and Allegheny each request authorization to provide essentially similar communications services on the same base station guard band frequency 158.70 MHz, in the same geographical area. Accordingly, a comparative hearing is required to determine which of the two mutually exclusive applications should, if at all, be granted.

3. Airsignal-Pittsburgh is the licensee of Station KGA 805, a one-way paging station in the DPLMRS at Pittsburgh, Pennsylvania, providing tone-only and voice repetitive paging services on the frequencies in the 35 MHz band. The instant application requests a construction permit to establish a new one-way paging station to provide automatic, direct-dial access tone-plus voice paging services.

4. The application of Allegheny proposes to add the frequency 158.70 MHz to its existing one-way paging service on guard band frequency 152.24 MHz.

5. In its Petition to Deny, Airsignal-Pittsburgh states that the Commission, on March 19, 1971, granted, in part, an application of Allegheny authorizing construction of one-way signaling facilities on frequency 152.24 MHz and simultaneously denied its request to also operate on frequency 158.70 MHz in the Pittsburgh market.¹

6. It contends that the refiling by Allegheny of the subject application for use of frequency 158.70 MHz should be denied or dismissed either because a

grant thereof would contravene established Commission policy relative to the assignment of guard band frequencies, or be declared a strike application in light of the fact that it was filed just over one year from the date of the partial denial of its prior application and shortly after the filing of Airsignal-Pittsburgh's subject application. As regards the Commission's policy relative to the assignment of guard band frequencies, Airsignal-Pittsburgh relies upon Mobile Radio Communications, Inc., 29 FCC 2d 62, (1971) and In re Pattersonville Telephone Company, 34 FCC 2d 258, reconsideration denied, 35 FCC 2d 745 (1972), aff'd sub. nom. Capitol Telephone Co., Inc. v. F.C.C., 498 F. 2d 734 (D.C. Cir. 1974). In substance, Airsignal-Pittsburgh maintains that the foregoing Commission decisions bar the grant of the available guard band frequencies in the same market to a single applicant. In view of the fact that Allegheny presently operates on one of the two available guard band frequencies in the Pittsburgh area, Airsignal-Pittsburgh asserts that a grant to Allegheny of the remaining guard band frequency would defeat the Commission's policy of fostering competition in the provision of paging services.

7. Finally, Airsignal-Pittsburgh disputes Allegheny's contention, contained in its application, that on the basis of present growth rate projections, it will require an additional channel in the near future. It maintains that Allegheny's existing operation of 1,122 units can be greatly enlarged by simply changing its terminal system.

8. Allegheny in its opposition contends that the Commission's policy relative to the assignment of guard band frequencies does not prevent full comparative consideration of its application pursuant to section 309(e) of the Communications Act. As regards Mobile Radio Communications, Inc. and Pattersonville Telephone Company it stresses that these cases involved new applicants for initial grants of both available guard band frequencies under circumstances which allowed the issuance of partial grants to the competing applicants, not dismissals of bona fide applications. Accordingly, Allegheny insists that the Commission's policy of not awarding a single applicant the available guard band frequencies simultaneously in a given area does not preclude a licensee operating on one of two available guard band frequencies from subsequently seeking a grant of the remaining frequency upon an appropriate showing. Further, Allegheny states that its subject application bears little resemblance to the former filing for the 158.70 MHz frequency and cannot be construed simply as a re-filing intended to block Airsignal-Pittsburgh's efforts to effectively compete with Allegheny in the Pittsburgh market. Allegheny insists that its application is a bona fide measure to alleviate existing channel loading and to accommodate projected demand for additional spectrum space. In response to the claim of lack of need for an additional frequency, Allegheny contends that its elec-

tion to obtain authorization to operate on frequency 158.70 MHz rather than to increase its existing capacity through additional terminals represents the more efficient course of providing its proposed service. Allegheny also contends that Airsignal-Pittsburgh lacks standing to prosecute its Petition to Deny on the ground that the allegations of fact contained in the Petition to Deny, except those of which official notice may be taken, are not supported by an affidavit of a person with personal knowledge thereof as required by section 309(d)(1) of the Communications Act. In this connection, we note that whatever deficiencies may appear in the affidavit affixed to Airsignal-Pittsburgh's petition are fully cured in the affidavit affixed to its reply pleading. Accordingly, Allegheny's contention in this regard is denied. Additionally, Airsignal-Pittsburgh's Reply provides no basis for persuading us that the application of Allegheny should be denied or dismissed without hearing. Accordingly, we shall forego any discussion of the points raised therein.

9. Discussion. Initially, we note that Airsignal-Pittsburgh has failed to raise a substantial and material issue of fact as to whether Allegheny's application is intended to frustrate or impede Airsignal-Pittsburgh's efforts to effectively compete in the Pittsburgh market in the provision of DPLMRS. The mere assumption that Allegheny's application is motivated by invidious designs, absent some factual showing, is insufficient to demonstrate *prima facie* that grant of Allegheny's application would contravene the public interest.

10. Airsignal next claims that Allegheny's application is not entitled to consideration because a grant thereof would defeat our policy of fostering competition in the provision of DPLMRS. Airsignal cites Mobile Radio Communications, Inc. and Pattersonville Telephone Company² in support of this argument. Briefly, in these decisions we provided that where one applicant seeks authorization to operate on all available guard band frequencies assigned to a given area, while another qualified applicant is seeking a single guard band frequency, the Commission will treat the multiple applications of the applicant seeking all available guard band frequencies as a single application and issue a partial grant thereof so as to provide the remaining frequencies to other qualified applicants.³ Through the frequency assignments made in these decisions we attempted to promptly provide needed service by avoiding delays inherent in the comparative hearing and to foster

² 29 F.C.C. 2d 62 (1971) and 34 F.C.C. 2d 458, reconsideration denied, 35 F.C.C. 2d 745 (1972), aff'd, sub. nom. Capitol Telephone Co., Inc. v. F.C.C., 498 F. 2d 734 (D.C. Cir. 1974).

³ However, the applicant for multiple frequencies can reject a partial grant and request a full comparative hearing. See Rules, Section 21.29 and Mobile Radio Communications, Inc., *supra*, at page 63.

¹ File No. 2200-C2-P-69.

diversity in the types of service offered by making grants to as many applicants as possible.

11. Under the Ashbacker doctrine⁴ we have traditionally designated a comparative hearing where two or more mutually exclusive applications are directed toward authorization of the same facility. The applications before us present such a situation, notwithstanding that Allegheny presently operates on one of the two available guard band frequencies in the Pittsburgh area. The prior grant to Allegheny was made under circumstances where no other applications were before us and hence we were not faced with competing requests for the available frequencies. While it is true that we have already granted Allegheny one of the two available guard band frequencies, we do not presently view that grant as precluding Allegheny from filing a subsequent application for authorization to operate on the remaining guard band frequency.⁵

12. We, therefore, will adhere to our traditional approach and order a comparative hearing because we have before us two applications which are electrically mutually exclusive. Accordingly, we will require that Allegheny and Airsignal-Pittsburgh each demonstrate a public need for their proposed additional services. As we said in New York Telephone Company, 47 FCC 2d 488 (1974), this showing of public need should be made by one of the alternative methods set forth in Long Island Paging, 30 FCC 2d 405 (1971). Further, we will require that Allegheny and Airsignal-Pittsburgh each demonstrate why their existing facilities are inadequate to meet the public need for their services, and why it is infeasible or undesirable to modify these existing facilities to meet all public need for their services.

13. It appears that except for the matters placed in issue herein, both applicants are legally, financially and technically qualified to render the proposed services.

14. Accordingly, it is ordered, pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the captioned applications are designated for hearing in a consolidated proceeding, at the Commission's offices in Washington, D.C. on a date to be specified upon the following issues:

a. To determine on a comparative basis the nature and extent of the services proposed by each applicant.

b. To determine the total area and population to be served by Airsignal International of Pittsburgh, Pennsylvania, Inc. within the 43 dbu contour of its proposed station based upon the standards set forth in section 21.504 of the F.C.C. rules and regulations, and to determine

the need for its proposed service in that area.

c. To determine the total area and population to be served by Allegheny Mobile Telephone Co., Inc. within the 43 dbu contour of its proposed station based upon the standards set forth in section 21.504 of the F.C.C. rules and regulations, and to determine the need for its proposed service in that area.

d. To determine the present and prospective channel loading by Airsignal International of Pittsburgh, Pennsylvania, Inc. of its presently assigned one-way paging frequency.

e. To determine the present and prospective channel loading by Allegheny Mobile Telephone Co., Inc. of its presently assigned one-way paging frequency.

f. To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications would best serve the public interest, convenience and necessity.

15. It is further ordered, That the burden of proof on issues (a) and (f) is placed on the respective applicants herein, on issues (b) and (d) is placed on Airsignal International of Pittsburgh, Pennsylvania, Inc., and on issue (c) and (e) is placed on Allegheny Mobile Telephone Co., Inc.

16. It is further ordered, That the parties desiring to participate herein shall file Notices of Appearance in accordance with the provisions of Section 1.221 of the Commission's rules.

17. It is further ordered, That the Chief, Common Carrier Bureau is made a party to the proceeding.

18. It is further ordered, That the petition of Airsignal-Pittsburgh to deny the application of Allegheny is denied.

Adopted: March 25, 1975.

Released: April 10, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-9625 Filed 4-11-75; 8:45 am]

[Report No. 748]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

APRIL 7, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's Rules, an application, in order to be considered with

¹ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

² The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21659-C2-P-74, DFRS, Inc. t/a Zipcall (KCB890), C.P. to add standby facilities to operate on 43.58 MHz at Loc. #9: Wood Hill, Andover, Massachusetts.

21301-CD-P-75, Peninsula Telephone & Telegraph Company (KOK333), C.P. to change frequencies from 152.72 MHz to 152.81 MHz at Loc. #1: Mt. Ellis, Lookout, Washington; and Loc. #2: 28 miles from Forks, Washington in SE. direction, Mt. Octopus, Washington.

21373-CD-R-75, Bell Telephone Company of Nevada (KD6271) (Developmental), Renewal of Developmental station expiring April 27, 1975. Term: 4/27/75-4/27/76.

21374-CD-P-(2)-75, Southern Bell Telephone & Telegraph Company (KIY518), C.P. to replace transmitter operating on 152.63 MHz located 3.3 miles NNW. of Bishop, North Carolina and replace transmitter operating on 157.89, test, located at 102 North Fourth Street, Wilmington, North Carolina.

21375-CD-P-75, Rogers Radio Communications Service, Inc. (KTS204), C.P. to add antenna Loc. #7 to operate on 152.24 MHz to be located on Burnett Rd., 0.6 mile W. of junction of Darrell Rd. & Burnett Rd., near Island Lake, Illinois.

21376-CD-P-75, W. L. and R. L. Meadow d.b.a. Jacksonville Radio Dispatch Service (KLF632), C.P. to add antenna Loc. #5 to operate on 152.24 MHz to be located at 1 Independent Plaza, Jacksonville, Florida.

⁴ Ashbacker Radio Corp. v. F.C.C., 326 U.S. 327 (1946).

⁵ We are, however, considering a rulemaking proceeding which will focus on possible modification of the present Commission policy in regard to guard band frequency allocation.

- 21377-CD-P-75, Aisignal of Colorado, Inc. (KAA276), C.P. for additional facilities to operate on 152.06 MHz at Loc. #2: 1616 Glenarm Place Security Life Building, Denver, Colorado.
- 21378-CD-P-75, RCC of Virginia, Inc. (KUO622), C.P. to add antenna Loc. #3 to operate on 152.12 MHz to be located at Monticello Avenue, Williamsburg, Virginia.
- 21379-CD-P-75, Irving Seltzer d.b.a. Altoona Telephone Message Center. (New), C.P. for a new 1-way station to operate on 152.24 MHz to be located at Wopsy Look-out, Altoona, Pennsylvania.
- 21380-CD-P-75, Radio & Electronics Service Company, Inc. (KLF542), C.P. to relocate facilities operating on 152.15 MHz to be located at 3101 North "R" St., Pensacola, Florida.
- 21381-CD-P-75, ComNav, Inc. d.b.a. Radio Telephone of Maine (KRS712), C.P. for additional facilities to operate on 158.70 MHz located at Copeland Hill, approximately 3 miles West of East Holden, Maine.
- 21382-CD-P-(6)-75, South Central Bell Telephone Company (KIA960), C.P. to change antenna system and relocate facilities operating on 152.60, 152.63, 152.66, 152.72, 152.75, and 152.78 MHz to be located at 1500 Beacon Parkway, East, Birmingham, Alabama.
- 21383-CD-P-75, South Central Bell Telephone Company (KRS688), C.P. to change antenna system and relocate facilities operating on 152.84 MHz at Loc. #1: 1500 Beacon Parkway, East, Birmingham, Alabama.

Corrections

- 20821-CD-ML-75, Aisignal of California, Inc., Fresno, California (KMA267), Correct to add Mod. of Lic. to change frequency from 2171.6 MHz to 2121.6 MHz, repeater facilities at Loc. #1: KFTV Tower, Bald Mountain, 3 miles East of Auberry, approx. 32 NE. of Fresno, California. All other particulars to remain as reported on PN #740 dated February 10, 1975.
- 21309-CD-AL-75, M. O. Bobes d.b.a. Mobile Telephone Service of Wheeling, West Virginia. Correct file number to read 21372-CD-AL-(2)-75. All other particulars to remain as reported on PN #747 dated March 31, 1975.

POINT-TO-POINT MICROWAVE RADIO SERVICE

- 2526-CF-P-75, Central Nebraska Telephone Company (KPP27), 10 Miles South of Sutherland, Nebraska. Lat. 41°01'21" N., Long. 101°09'14" W. C.P. to change antenna system and azimuth for frequency 5945.2H MHz toward Sutherland Passive Reflector on azimuth 156°12' and from Passive Reflector to Station KPP31 near Sutherland on azimuth 04°16'.
- 3157-CF-ML-75, The Pacific Telephone and Telegraph Company (KM333), Strawberry Peak, 9 Miles North of San Bernardino, California. Lat. 34°13'55" N., Long. 117°14'04" W. Mod. of License to change polarization from Vertical to Horizontal on 3770, 3930, 4010, and 4090 MHz toward Table Mountain, California; from Horizontal to Vertical on 3770, 3850, 3930, and 4070 MHz toward Padua Hills, California.
- 3158-CF-ML-75, Same (KMW74), Padua Hills, 3 Miles North of Claremont, California. Lat. 34°08'33" N., Long. 117°43'17" W. Mod. of License to change polarization from Horizontal to Vertical on 3730, 3810, and 3890 MHz and from Vertical to Horizontal on 4030 MHz toward Los Angeles, California; change particulars of alarm center location.

- 3164-CF-P-75, The Mountain States Telephone and Telegraph Company (New), On County Road, 0.2 Mile North of Post Office, Saint Regis, Montana. Lat. 47°18'08" N., Long. 115°05'51" W. C.P. for a new station on frequencies 11325V and 11565H MHz toward Superior R., Montana via Passive Reflector.
- 3165-CF-P-75, Same (KYS25), 10.5 Miles NE. of Superior, Montana. Lat. 47°16'01" N., Long. 114°41'52" W. C.P. to add antenna and frequencies 10875V and 11115H MHz toward a new point of communication at Saint Regis, Montana on azimuth 286°51'.
- 3181-CF-P-75, Same (KPR45), 6.5 Miles SE. of Billings, Montana. Lat. 45°43'44" N., Long. 108°23'43" W. C.P. to add antenna and frequencies 11665H and 11425V MHz toward a new point of communication located at Goulding Creek, Montana on azimuth 342°31'.
- 3182-CF-P-75, Same (New), 401 First Street West (Rear), Roundup, Montana. Lat. 46°26'43" N., Long. 108°32'37" W. C.P. for a new station on frequencies 11225V and 11645H MHz via Passive Reflector toward a new point of communication located at Goulding, Montana on azimuth 274°18'.
- 3183-CF-P-75, Same (New), Goulding Creek, 15.3 Miles South of Roundup, Montana. Lat. 46°12'20" N., Long. 108°36'42" W. C.P. for a new station on frequencies 10775H and 11015V MHz toward Billings Junction, Montana on azimuth 162°21'; frequencies 10815V and 11055H MHz via Passive Reflector toward a new point of communication located at Roundup Mountain, Montana on azimuth 3°13'.
- 3186-CF-P-75, American Telephone and Telegraph Company (KGO74), 1.6 Miles South of Centerport, Pennsylvania. Lat. 40°27'49" N., Long. 76°00'29" W. C.P. to add frequency 3750V MHz toward Lynnport, Pennsylvania on azimuth 32°20'.
- 3187-CF-P-75, Same (KVU38), 2.8 Miles North of Lynnport, Pennsylvania. Lat. 40°42'55" N., Long. 75°47'55" W. C.P. to add frequency 3710V MHz toward Centerport, Pennsylvania on azimuth 212°28'.
- 2992-CF-MP-75, United Video, Inc. (WAH 545), 1.6 Miles NE. of Gibson City, Illinois. Lat. 40°29'12" N., Long. 88°21'46" W. C.P. to add frequencies 11665.0V MHz and 11425.0V MHz toward Rantoul, Illinois on azimuth 135°9'; and toward Champaign, Illinois on azimuth 165°24', via power split).
- 2992-CF-MP-75, Same. (WPX22), 2.5 Miles East of Gridley, Illinois. Lat. 40°45'12" N., Long. 88°48'57" W. C.P. to add a new point of communication on 10775.0V MHz and 110150V MHz toward Gibson City, Illinois, on azimuth 126°31'.
- 3150-CF-P-75, Tex-Mex Communications Company (KLM97), SW. of Boise, Texas. C.P. to replace transmitters and to increase power from 0.1 watt to 1.0 watt output.
- 3151-CF-P-75, Same, Denver City, Texas. C.P. to replace transmitters and to increase power from 0.1 watt to 1.0 watt output.

Correction

- 3118-CF-A1-(4)-75, Consent of Assignment of Radio Station Licenses. Correct calls signs to read: KYZ85—Mt. Washington, New Hampshire; KYZ86—Moose Hill, Maine; WQQ54—Blinn Hill, Maine; and WAH541—Saddleback Mtn., New Hampshire. (All other particulars remain the same as reported in Public Notice dated March 31, 1975).

- 2844-CF-P-75, American Telephone and Telegraph Company (KKH72), Oklahoma City, Oklahoma. Correct Co-ordinates to read Lat. 35°28'16" N., Long. 97°30'53" W. (All other particulars remain the same as reported on Public Notice #744 dated March 10, 1975.)

MULTIPOINT DISTRIBUTION SERVICE

- 50082-CM-P-75, Microband Corporation of America, Bethesda, Maryland. Mod. of C.P. to increase power on 2154.75 MHz and 2150.25 MHz. (Primary Service Area: Washington, D.C.)

[FR Doc.75-9628 Filed 4-11-75;8:45 am]

STANDARD BROADCAST APPLICATIONS

Availability for Processing

Notice is hereby given, pursuant to section 1.571(c) of the Commission's rules, that on May 20, 1975, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b) (1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 19, 1975, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on May 19, 1975.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast applications, pursuant to section 309(d) (1) of the Communications Act of 1934, as amended, is directed to section 1.580 (i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings. Attachment.

Adopted: April 4, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

- BP-19646 KSWB, Roswell, New Mex. Berrendo Broadcasting Co. Has: 1020 kHz, 10 kW, 50 kW-LS, DA-2, U. Req: 1020 kHz, 50 kW, DA-2, U.
- BP-19647 KGBS, Los Angeles, Calif. Storer Broadcasting Co. Has: 1020 kHz, 50 kW, DA-1, L-KDKA. Req: 1020 kHz, 50 kW, DA-2, U.

[FR Doc.75-9626 Filed 4-11-75;8:45 am]

WARC CONFERENCE WORKING GROUP MEETING

Meeting

APRIL 4, 1975.

In preparation for the 1979 World Administrative Radio Conference

(WARC), three conference preparatory Working Groups under the Safety and Special Radio Services Bureau will be meeting at the Commission during the week of May 5, 1975.

The Land Mobile Working Group, headed by Neal Pike, will meet on Wednesday, May 7, at 9 A.M. in Room 8210; the Amateur Radio Working Group, headed by A. Prose Walker, will meet on Thursday, May 8, at 9 A.M. in Room 8210; and the Private Microwave Working Group, headed by Joseph Johnson, will meet on Friday, May 9, at 9 A.M. in Room 8009. These three meetings will be held in the Commission's offices at 2025 M Street, NW., Washington, D.C. The meetings will be for the purpose of organizing the Working Groups, and for establishing Task Forces, if necessary, for developing requirements for spectrum allocations in the various services.

A total of 23 Working Groups have been formed by the Commission to investigate the spectrum needs of the United States to the year 2000. The outputs of the various working groups will be channeled to one or more of four functional committees which will examine spectrum requirements and give recommendations based on these requirements to the FCC Steering Committee. The Steering Committee, composed of high level members of each of the Commission's Bureaus and Offices, will be responsible for formulating the Commission's basic spectrum recommendations for use at the 1979 Conference.

Members of industry and the public may participate as observers at the Working Group level of activity. Persons wishing to attend the above three meetings who have not previously registered for WARC participation may complete their registration forms at the time of the meetings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-9627 Filed 4-11-75; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

NATURAL GAS TRANSMISSION AND DISTRIBUTION ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Natural Gas Transmission and Distribution Advisory Committee will meet Thursday, May 1, 1975, at 10:00 a.m., Room 3400, 12th & Pennsylvania Avenue, NW., Washington, D.C.

This Committee was established to provide independent advice and review to the Federal Energy Administration with respect to transmission and distribution and with respect to the implementation of programs that affect gas transmission and distribution activities.

The agenda for the meeting is as follows:

1. Liquefied Natural Gas (LNG) Imports—Pros and Cons.
2. Allocation of Petroleum Feedstocks for Synthetic Natural Gas (SNG) Plants.
3. Rolled-in vs. Incremental Pricing for Natural Gas—Pros and Cons.
4. Legislative Remedies for Gas Utilities' Financial Requirements.
5. Problems Involved with Offshore Drilling on the North Atlantic Coast.
6. Low Btu vs. High Btu Gas and Related Research.
7. Priority Allocation of Natural Gas Supplies.
8. Update Report on Natural Gas Curtailments.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Office (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on April 10, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.75-9758 Filed 4-10-75; 2:58 pm]

WHOLESALE PETROLEUM ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Wholesale Petroleum Advisory Committee will meet Monday, May 5, 1975, at 9 a.m., in the "Northwest Room," Hilton Seattle Airport Hotel, 17620 Pacific Highway South, Seattle, Washington.

The Committee was established to provide advice and information to the Federal Energy Administration concerning the wholesale trade of selling heating oil, residual fuel, and gasoline.

The agenda for the meeting is as follows:

1. Discussion of the Extension of the Emergency Petroleum Allocation Act of 1973.
2. Discussion of Class of Purchaser.
3. Discussion of Surplus Product.
4. Legislative Remedies for Gas Utilities' Financial Requirements.
5. Problems Involved with Offshore Drilling Base Period.
6. Discussion of Rents and Leasing.
7. Remarks from the Floor (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Office (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on April 9, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.75-9713 Filed 4-10-75; 9:59 am]

VOLUNTARY AGREEMENT AND PROGRAM RELATING TO THE INTERNATIONAL ENERGY PROGRAM

Approval by the Administrator of General Services and the Attorney General

Correction

In FR Doc. 75-9018, appearing at page 16042 in the issue for Tuesday, April 8, 1975, make the following changes:

1. The last sentence of the first paragraph (preamble) should read as set forth below:

* * * Set forth below are the text of the Agreement, the letter of the Administrator of FEA to the Administrator of General Services recommending approval, dated March 6, 1975 (Appendix A), the letter of the Administrator of General Services to the Administrator of FEA, dated March 28, 1975, approving the Agreement (Appendix B), and the letter of the Attorney General to the Administrator of General Services, dated March 28, 1975, approving the Agreement (Appendix C).

2. In the text of the "Voluntary Agreement * * *" in the paragraph which follows the center heading "11. Withdrawal from Agreement", in the 14th line, the word "be" should be changed to read "by".

FEDERAL MARITIME COMMISSION

BARBER LINES A/S AND BLUE SEA LINE CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San

Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 5, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Milton J. Levitt, Esq.
Palmer Series & Baar
Attorneys at Law
120 Broadway
New York, New York 10005

Agreement No. 10137-1, between Barber Lines A/S and the Blue Sea Line Companies, modifies the approved basic agreement by amending Article 1 thereof and the Appendix thereto to designate with greater specificity certain areas in the Far East and Southeast Asia presently covered by the agreement, and to include certain other ports within the scope of the agreement, as set forth in the Appendix thereto.

By Order of the Federal Maritime Commission.

Dated: April 9, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 75-9682 Filed 4-11-75; 8:45 am]

PACIFIC/INDONESIAN CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C., 20573, on or before April 24, 1975. Any person desiring a hearing on the proposed modification of the contract form and/or the approved

contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement Filed by:

H. R. Rollins, Secretary
Pacific/Indonesian Conference
635 Sacramento Street
San Francisco, California 94111

The Pacific/Indonesian Conference, Agreement No. 6060, has filed an appli-

cation for permission to institute an exclusive patronage (dual rate) contract system pursuant to section 14b of the Shipping Act, 1916.

By Order of the Federal Maritime Commission.

Dated: April 9, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 75-9681 Filed 4-11-75; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-3209, et al.]

AMOCO PRODUCTION CO. (OPERATOR), ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

Correction

In FR Doc. 75-8920, appearing at page 15960 in the issue of Tuesday, April 8, 1975, the following material was inadvertently omitted.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI75-535 3-6-75	Southwestern Refining Co., Inc. (Operator) et al., P.O. Box 9217, Corpus Christi, Tex. 78408.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Southwest Bailey Field, Jim Wells County, Tex.	\$46.225	15.65
CI75-536 (CI65-458) 3-4-75	Solo Petroleum Co., 970 First National Center—North, Oklahoma City, Okla. 73102.	Champlin Oil & Refining Co., North Lockridge Field, Logan County, Okla.	(b)	
CI75-537 (CI74-347) 3-10-75	Petroleum, Inc., 300 West Douglas Wichita, Kans. 67202.	Northern Natural Gas Co., acreage in Seward County, Kans.	Depleted	
CI75-539 3-10-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Co., No. 1 Davison Well, Texas County, Okla.	\$54.5000	14.65
CI75-541 (G-9036) 3-12-75	Paul R. Davis and Lester B. Wood, 309 Oil & Gas Bldg., Shreveport, La. 71101.	Texas Eastern Transmission Corp., Woodlawn Field, Harrison and Marion Counties, Tex.	Uneconomical	

¹ No sales were commenced because the dedicated acreage failed to become productive.

[Docket No. CI75-577] AMERADA HESS CORP.

Application

APRIL 7, 1975.

Take notice that on March 27, 1975, Amerada Hess Corporation (Applicant), 1200 Milam, 6th Floor, Houston, Texas 77002, filed in Docket No. CI75-577 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company (Northern) from four wells located in the Eunice and Monument Fields, Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed to sell approximately 78,128 Mcf of natural gas per month to Northern for a period of one year within the contemplation of section 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell the gas to Northern at 60.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Applicant states it seeks au-

thorization for this limited term sale to ascertain the volumes of gas available for future sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if

the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9632 Filed 4-11-75;8:45 am]

[Docket No. CP74-320]

COLORADO INTERSTATE GAS CO.

Extension of Procedural Dates

APRIL 7, 1975.

On March 31, 1975, Colorado Interstate Gas Company a division of Colorado Interstate Corporation (CIG) filed a motion to extend the procedural dates fixed by order issued March 14, 1975 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of CIG and Supporting Intervenor Testimony, April 29, 1975.
Hearing: May 20, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-9633 Filed 4-11-75;8:45 am]

[Docket No. RP75-86]

COLORADO INTERSTATE GAS CO.

Proposed Changes in Rates and Charges

APRIL 7, 1975.

Take notice that Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), on March 31, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. CIG states that the proposed rates would include revenues from jurisdictional sales and service by \$6.8 million over those rates presently being collected subject to refund in Docket No. RP74-77, inclusive of appropriate PGA adjustments. CIG further states that there is an agreement in principle in the above-mentioned docket, between CIG, the Staff, and intervenors proposing settlement of the case and that if the settlement agreement, when filed, is approved, the proposed current increase will amount to approximately \$13.4 million. CIG states that the proposed increase is based on the twelve-month period ended December 31, 1974, adjusted for known and measurable changes which will occur within the nine months subsequent to that date, as provided for in the Commission's regulations.

CIG states that the jurisdictional rates filed herewith are designed to enable

CIG to recover increases in its jurisdictional cost of service attributable primarily to additional facilities, additional advances for gas supplies, increased return requirements, an increase in depreciation rates, and a change from flow-through to normalized accounting for the tax benefit of liberalized depreciation.

Copies of this filing were served upon the Company's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9634 Filed 4-11-75;8:45 am]

[Dockets No. RP74-82 and RP74-81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Settlement Conference

APRIL 7, 1975.

Take notice that on Tuesday, April 22, 1975 and Wednesday, April 23, 1975, a conference of all interested parties in the above-referenced dockets will be convened at 10 a.m., in a conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. See the bulletin board on the second floor for the room number.

The conference will be held pursuant to section 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of section 1.18 of the Rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company's proposed tariff changes, any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached

by the parties in attendance at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9635 Filed 4-11-75;8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Motion for Six Month Extension of Interim Curtailment Plan

APRIL 7, 1975.

Take notice that Columbia Gas Transmission Corporation (Columbia), on April 1, 1975, filed a motion requesting the Commission to extend its currently effective interim curtailment plan, with certain modifications, for a period of six months from May 1, 1975 through October 31, 1975. The modification is intended to exclude the so-called compensation features contained in the interim plan due to Commission orders in this proceeding holding them to be unlawful.

Columbia contends that the extension of its interim plan would maintain the status quo to the extent possible, pending the outcome of the extensive hearing in progress on Columbia's permanent plan in the above-entitled proceeding. Columbia alleges that the requested extension will avoid an unreasonable disruption of its customers' planning based on the annual entitlement feature for the twelve-month period ending October, 1975, contained in the interim plan.

Columbia asserts that without a grant of its motion, because of the Commission's warnings on the risks involved in implementing a plan not in conformity with Order No. 467-B, it would have to implement such a plan on May 1, 1975. Columbia alleges that this would be unlawful without consideration of the very extensive record being developed in the ongoing hearings. Columbia further asserts that curtailments pursuant to Order No. 467-B should not be implemented using the unverified data presently available, which has also been the subject of extensive cross-examination at the hearings.

In further support of its motion, Columbia refers to recent court decisions which, according to Columbia, hold that the Commission may not modify or replace a pipeline's existing curtailment plan without findings based on a full record, which is presently being compiled in this proceeding, that such plan is in violation of the Natural Gas Act.

Columbia claims that its interim plan has operated extremely well during the 1974-1975 winter season when Columbia curtailed at a level of approximately 20%, and that the Commission was not required to grant any petitions for extraordinary relief.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of comments and petitions to intervene. Therefore, any person desiring to be heard or to protest said motion should, on or before April 16,

1975, file such comment or petition to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-9636 Filed 4-11-75; 8:45 am]

[Docket Nos. RP72-157, PGA75-5 et al.]

**CONSOLIDATED GAS SUPPLY CORP.,
ET AL.**

Order Accepting for Filing PGA Rate Increases To Track Increased Gas Costs Resulting From Opinion No. 699-H

APRIL 7, 1975.

Pursuant to Opinion No. 669-H in Docket No. R-389-B, issued on December 4, 1974, any jurisdictional pipeline company having a purchase gas adjustment clause in effect on June 21, 1974, and thereafter, was permitted to file on or before March 3, 1975, a special rate increase to track the rates prescribed in § 2.56a (18 CFR § 2.56(a)) of our Regulations effective as of the date of the filing, provided such rates are in effect pursuant to filings made by natural gas producers pursuant to § 2.56a(j) on or before January 31, 1975.

In accordance with those sections mentioned above many pipelines have filed special rate increases to track the rates as prescribed in Opinion No. 699-H. Of those pipelines the eighteen listed in Appendix A¹ are the subject of this order. The facts surrounding those filings are as follows:

Texas Gas Transmission Corporation, RP72-156, PGA75-3. On February 18, 1975, Texas Gas filed an increase (1) to reflect increased purchased gas costs of \$21,748,215, including increases totalling \$17,868,000 from Texas Eastern and United Gas and (2) a surcharge to recoup \$6,416,698 in the deferred purchase gas cost account. The proposed effective date is March 1, 1975.

Texas Eastern Transmission Corporation, RP74-41, PGA75-6. On February 24, 1975, Texas Eastern filed an increase (1) to reflect increased purchased gas costs of \$43,416,056 and (2) a surcharge

to recoup \$8,426,330 in the deferred account. The proposed effective date is March 1, 1975. The increase tracks, among other things, an increase by Southern Natural.

Lawrenceburg Gas Transmission Corporation, RP37-23, PGA75-3. On February 27, 1975, Lawrenceburg filed an increase of \$203,435 to track an increase from Texas Gas to be effective March 1, 1975.

United Gas Pipe Line Company, RP72-133, PGA75-2. On February 21, 1975, United filed an increase (1) to reflect increased purchased gas costs of \$55,400,000 and (2) a surcharge to recoup \$20,300,000 in the deferred purchased gas cost account. The proposed effective date is March 1, 1975.

Panhandle Eastern Pipe Line Company, RP73-36, PGA75-3. On February 27, 1975, Panhandle filed an increase (1) to reflect an increase of \$6,288,956 by Trunkline and an increase of \$4,427,968 from producer suppliers and (2) a surcharge to recoup \$3,057,864 in the deferred account. The proposed effective date is April 1, 1975.

Trunkline Gas Company, RP73-35, PGA75-2. On February 27, 1975, Trunkline filed an increase (1) to reflect increased gas costs of \$7,389,068 and (2) a surcharge to recoup \$2,148,140 in the deferred account. The proposed effective date is April 1, 1975.

Tennessee Gas Pipe Line Company, RP73-114, PGA75-2. On February 28, 1975, Tennessee Gas filed an increase (1) to reflect an increase of \$60,483,940 and (2) a surcharge to recoup \$36,985,165 in the deferred account. The proposed effective date is March 1, 1975.

Alabama-Tennessee Natural Gas Company, RP73-77, PGA75-5. On February 28, 1975, Alabama-Tennessee filed an increase of \$22,630,000 to track an increase by Tennessee to be effective March 1, 1975.

East Tennessee Natural Gas Company, RP71-15, PGA75-4. On February 28, 1975, East Tennessee filed an increase of \$14,060,000 to track an increase by Tennessee Gas to be effective March 1, 1975.

Granite State Gas Transmission, Inc., RP73-17, PGA75-4. On March 3, 1975, Granite State filed an increase of \$602,000 to track an increase by Tennessee Gas to be effective March 1, 1975.

Tennessee Natural Gas Lines, Inc., RP71-11, PGA75-3. On March 3, 1975, Tennessee Natural filed an increase of \$3,497,000 to track an increase by Tennessee Gas (reported herein) to be effective March 1, 1975.

Consolidated Gas Supply Corporation, RP72-157, PGA75-5. On February 26, 1975, Consolidated filed an increase (1) to track increases totalling \$51,200,000 from Texas Eastern, Tennessee Gas and Texas Gas to be effective March 1, 1975, and (2) a surcharge to recoup \$800,000 in the deferred account.

North Penn Gas Company, RP73-3, PGA75-5. On February 28, 1975, North Penn filed an increase to track increases totalling \$3,314,577 from Con Gas and

Tennessee Gas proposed to be effective March 1, 1975.

Mississippi River Transmission Corporation, RP72-149, PGA75-7. On February 21, 1975, MRT filed an increase to track rate increases totalling \$27,527,980 from United Gas and Natural Gas Pipeline proposed to be effective March 1, 1975.

Mid Louisiana Gas Company, RP73-43, PGA75-3. On February 25, 1975, Mid Louisiana filed an increase (1) to reflect increased costs totalling \$1,712,110 from United Gas and producer suppliers. The proposed effective date is March 1, 1975.

Sea Robin Pipeline Company, RP73-89, PGA75-2. On February 21, 1975, Sea Robin filed an increase (1) to reflect increased purchased gas costs of \$12,777,775 by its producer supplier and (2) a surcharge to recoup \$14,697,301 in its deferred account. The proposed effective date is March 1, 1975.

Arkansas Louisiana Gas Company, RP74-61, PGA75-2. On March 4, 1975, Arkansas Louisiana filed an increase to reflect increased purchased gas costs of \$529,289 from its producer suppliers. The proposed effective date is March 1, 1975.

Cities Service Gas Company, RP72-142, PGA75-4. On February 18, 1975, Cities filed a rate increase of 0.94¢ per Mcf or \$3,119,121 to track increased rates by its producer suppliers to be effective February 23, 1975.

On the dates given in Appendix A, notice was issued in these eighteen filings. Pursuant to these notices no comments were received to date with the exception discussed below.

On March 17, 1975, a group of customers (Customers)² of Algonquin Gas Transmission Company, which is in turn, a customer of Texas Eastern, filed a protest objecting to (1) any waiver of Texas Eastern's tariff provisions with respect to the 45-day notice period and (2) any waiver of the Commission's Regulations with respect to the requested effective date of March 1, 1975.³ Customers indicate that Texas Eastern filed its increase on February 24, 1975, only 4 days before the proposed effective date. They further state that to give the Texas Eastern filing the proposed March 1, 1975, effective date would jeopardize Customers' ability to track all of the increase because of "strictives placed upon them by the regulatory authorities in the states in which they are located."

Texas Eastern made its filing pursuant to Ordering Paragraph D of Opinion No. 699-H⁴ which provides as follows:

(D) Notwithstanding the provisions of § 154.38(d) (4) (iv) of the Regulations Under

¹ This filing was received by the March 3, 1975, date specified by Opinion No. 699-H, but was not stamped in until 8:19 a.m. on March 4, 1975.

² See Appendix B.

³ Customers filed a similar protest to Algonquin's filing dated March 3, 1975, which proposed to track Texas Eastern's filing as of March 1, 1975.

⁴ FPC issued December 4, 1974, in Docket No. R-389-B.

¹ Appendix A filed as part of the original document.

the Natural Gas Act (18 CFR § 154.38(d) (4) (iv)), any jurisdictional pipeline company having a purchase gas adjustment clause in effect on June 21, 1974, and thereafter, pursuant to § 154.38(d) (4), may file on or before March 3, 1975, a special rate increase to track the rates prescribed in § 2.56a (18 CFR § 2.56(a)) effective as of the date of the filing, provided such rates are in effect pursuant to filings made by natural gas producers pursuant to § 2.56a(j) on or before January 31, 1975.

The Commission found (mimeo p. 64) that good cause existed to waive the normal 45-day notice requirements set forth in § 154.38(d) (4) of the Regulations and in pipeline's tariffs in order to preclude undue delay in recovery of these costs by pipelines subject to our jurisdiction. While we are cognizant of the difficulties which distributors may sometimes encounter in passing through purchased gas cost increases of its wholesale suppliers, such problems relate to matters not within our jurisdiction and do not constitute grounds for delay in the establishment and implementation of just and reasonable rates.⁸

Alternatively, Customers propose that Texas Eastern's effective date be delayed until April 1, 1975, with the amount for March being placed in its deferred purchased gas cost account, with interest. We do not believe good cause has been shown to adopt this proposal.⁹ Accordingly, we shall deny Customer's protest and shall not adopt Customers' alternate proposal.

Our review of the subject PGA increases indicated that the increases comply with the PGAG in the tariffs and with Opinion No. 699-H. Accordingly, we shall accept the PGA increases effective as of the dates listed herein. In the cases where the underlying rates are subject to refund the rates filed herein shall also be subject to refund. The rates effectuated herein shall be subject to change to reflect any adjustments in the underlying supplier rates. This action is also subject to any rate adjustments and/or refunds which may be required as a result of further orders in Docket No. R-389-B or of any appeals of such orders to the Courts. Such rate adjustments and/or refunds shall, of course, be governed by the provisions of the respective pipelines' PGA clauses and Section 154.38(d) (4) of the Regulations.

The Commission finds: The PGA increases herein described comply with the

⁸ See: Natural Gas Pipe Line Company of America, order issued March 10, 1975, in Docket No. RP74-96, et al.; Southern Natural Gas Company, Docket Nos. RP73-64 and RP72-91 (Phase II) et al., orders issued May 10, 1974, and July 5, 1974; Northwest Pipe Line Corporation, Docket Nos. RP73-154 and CP73-332, order issued October 30, 1974; Connecticut Light and Power Company, Docket No. E-8952, order issued November 8, 1974; Northern States Power Company, Docket No. E-9155, order issued February 5, 1975; and Northern Natural Gas Company, Docket Nos. RP71-107 (Phase II) and PGA75-2, order issued February 6, 1975.

⁹ See: Natural, supra.; Northern Natural, supra.

PGAG in the tariffs and with Opinion No. 699-H and should be accepted for filing and made effective as hereinafter conditioned.

The Commission orders: (A) The PGA filings herein described are accepted for filing and shall become effective on the dates proposed by the respective companies. This action is subject to any rate adjustments and/or refunds which may be required as a result of further orders in Docket No. R-389-B or of any appeals of such orders to the Courts.

(B) The companies which have underlying rates, which are subject to refund, shall have their PGA increase also subject to refund.

(C) The rates effectuated herein shall be subject to change and refund to reflect any adjustments in the underlying suppliers rates.

(D) This acceptance for filing shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act, as amended; nor shall it be construed as constituting approval of the referenced filings or of any rate, charge, classification, or any rule, regulation or practice affecting such rate or service contained in the respective tariffs; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation associated therewith; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the respective pipelines.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9648 Filed 4-11-75;8:45 am]

[Docket Nos. CP73-47, CP73-88, CP73-139, CP73-197 and CP73-199]

EASCOGAS LNG, INC. ET AL.

Hearing in Providence, R.I.

APRIL 2, 1975.

Eascogas LNG, Incorporated, Algonquin LNG, Incorporated, Algonquin Gas Transmission Company, New England LNG Company, Incorporated.

In accordance with Commission's Order of March 21, 1975, a hearing session in these cases will commence at 10:30 a.m. on May 15, 1975, in room 234 of the U.S. Post Office Building, 318 Federal Building, Providence, Rhode Island 02903.

This session will be limited to submissions concerning the LNG tanks proposed in Docket No. CP73-139. These submissions may be in the form of sworn statements of position or opinion which may be read or copied into the record in order to reflect the concerns of local citizens with the safety and environmental impacts of the project. However, these unsworn statements will not be considered

as evidence in the proceeding, unless the submittals are made under oath and an opportunity is accorded all parties for cross-examination thereon. The sworn submittals should be mailed to the parties by May 1, 1975.

ALLEN C. LANDE,
Presiding Administrative
Law Judge.

[FR Doc.75-9631 Filed 4-11-75;8:45 am]

[Docket No. E-9349]

KANSAS GAS AND ELECTRIC CO.

Notice of Tariff Change

APRIL 7, 1975.

Take notice that Kansas Gas and Electric Company (KG & E), on April 2, 1975, tendered for filing proposed changes in its FPC Electric Service Tariff PWM-173, Public Utility Resale (FPC Rate Schedule Nos. 32, 55, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, and 133). The proposed change would increase revenues from jurisdictional sales and service by \$400,909 based on the twelve-month period ending December 31, 1974. In addition, Applicant is filing a fuel adjustment clause rider applicable to the above FPC rate schedules conforming to Docket No. R-479, Order No. 517, which amends Section 35.14 of the Regulations under the Federal Power Act.

Applicant states its present revenues are inadequate to provide, by any reasonable test, a fair return on its investment. KG & E also states its earnings must be increased to assure continued confidence in the financial integrity of the business which will enable it to maintain its credit and attract the necessary additional capital on reasonable terms to finance its approximate \$545 million construction program through 1979. This program must be completed in order to provide a continuous supply of electricity, now and in the future, to its customers including the growing resale requirements.

Copies of the filing were served upon the jurisdictional customers and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said Application should file a petition to Intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9637 Filed 4-11-75;8:45 am]

[Docket No. RI74-194]

KWB OIL PROPERTY MANAGEMENT, INC.**Order Accepting Settlement, Granting Special Relief, and Permitting Intervention**

APRIL 7, 1975.

By order issued June 17, 1974, KWB Oil Property Management, Inc.'s (KWB's) petition for special relief pursuant to Section 2.76 of the Commission's general policy and interpretations (hereinafter § 2.76)¹ was set for prehearing conference to commence on July 15, 1974. After various continuances, the instant proceeding was indefinitely postponed by the Presiding Administrative Law Judge (Tr. Vol. II, p. 12) on September 19, 1974.

On January 21, 1975, KWB met with the Commission Staff in an informal conference pursuant to letter notice of December 26, 1974, to all parties. At this informal conference, KWB submitted certain data, in addition to that submitted on previous occasions, which staff utilized in preparing an independent cost of service study. The results of this study, attached as Appendix A to a Staff statement (see *infra* p. 2) supporting the proposed settlement, indicate that a proposed settlement rate of 35 cents per Mcf at 14.65 psia for KWB's sales of natural gas to Cities from the V. L. Cook 1-A and McCracken No. 1 wells located in the North Hardtner Field, Barber County, Kansas, is justified.

Pursuant to notice issued February 20, 1975, a hearing was convened in Docket No. RI74-194 on February 26, 1975, at which time statements by KWB and Cities accepting a rate of 35 cents per Mcf and a Commission Staff Statement in Support of Proposed Stipulation and Settlement Agreement were copied into the record. On February 28, 1975, the Presiding Administrative Law Judge certified the record of the February 26, 1975 proceeding, including the proposed settlement, to the Commission. Notice of the certification was issued on March 11, 1975, and appeared in the Federal Register at 40 FR 12322 on March 18, 1975. Previously, on April 29, 1974, Cities petitioned to intervene in support of KWB's original petition for special relief in which KWB sought a rate of 40 cents per Mcf for the instant sales.

A petitioner pursuant to § 2.76 is required to establish the economic justification for the relief it seeks, including information on additional costs, the unit price, and the amount of gas to be recovered and sold in the interstate market. We find that KWB has satisfied the evidentiary burden of § 2.76.

The Commission finds: (1) The proposed settlement rate of 35 cents per Mcf at 14.65 psia is just and reasonable.

(2) Good cause exists to allow Cities to intervene in these proceedings.

The Commission orders: (A) KWB is granted special relief and is authorized to charge 35 cents per Mcf at 14.65 psia for its sales of natural gas to Cities from the V. L. Cook 1-A and the McCracken

¹ 18 C.F.R. § 2.76.

No. 1 wells located in the North Hardtner Field, Barber County, Kansas.

(B) Said rate is to be effective as of the date of issuance of this order provided that, within 30 days hereof, KWB files a copy of its contract amendment with Cities allowing it to charge 35 cents per Mcf at 14.65 psia for the subject sales.

(C) Cities is permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings, and *Provided, further*, That such intervenor shall accept the record as it has been established in the proceedings to date.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9638 Filed 4-11-75;8:45 am]

[Docket No. CP75-227]

MONTANA-DAKOTA UTILITIES CO.**Extension of Procedural Dates**

APRIL 7, 1975.

On April 3, 1975, Montana-Dakota Utilities Company filed a motion to extend the procedural dates fixed by order issued March 28, 1975, in the above-designated matter. The motion states that staff counsel has been notified and has no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Testimony: April 18, 1975.

Hearing: April 22, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9639 Filed 4-11-75;8:45 am]

[Docket No. E-9136 and E-9140]

NEW ENGLAND POWER SERVICE CO.**Extension of Procedural Dates**

APRIL 7, 1975.

On March 19, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued December 31, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony: June 10, 1975.

Service of Intervenor's Testimony: June 24, 1975.

Service of Company Rebuttal: July 8, 1975.

Hearing: July 22, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9640 Filed 4-11-75;8:45 am]

[Docket No. E-8252]

**NORTHERN STATES POWER CO.
(MINNESOTA)****Notice of Compliance Filing**

APRIL 7, 1975.

By order issued February 21, 1975, the Commission approved a settlement proposal in this proceeding. Ordering paragraph (B) of that order required Northern States Power Company (Northern States) to file with the Commission, within thirty days of the issuance of the order, revised tariff sheets in conformity with the terms of the approved settlement agreement.

On March 24, 1975, Northern States tendered for filing Second Revised Schedule A's to its Firm Power Service Resale Agreements and Supplemental Agreements to its Firm Power Service Resale Agreements in compliance with the Commission order's directive.

Northern States states that upon Commission acceptance of the schedules and supplemental agreements it will make refunds to its customers and report the same to the Commission.

Northern States states that copies of the filing have been served on each of its total requirements wholesale customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before April 18, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9641 Filed 4-11-75;8:45 am]

[Docket No. RP73-3 PGA75-9]

NORTH PENN GAS CO.**Notice of Proposed Changes in FPC Gas Tariff**

MARCH 31, 1975.

Take notice that North Penn Gas Company (North Penn) on March 24, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective May 1, 1975. The proposed rate change will decrease jurisdictional revenues based on the twelve-month period ending February 28, 1975, by \$51,600 annually, according to North Penn.

North Penn states that the PGA filing was triggered by a rate decrease filed by Consolidated Gas Supply Corporation, March 18, 1975 to become effective May 1, 1975.

North Penn is requesting a waiver of the 45-day notice requirement contained

in its PGA clause since it did not receive its supplier's revised rates in sufficient time to make a timely filing and further asks for a waiver of any other of the Commission's rules and regulations in order to permit the proposed rates to go into effect on May 1, 1975.

North Penn states that copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 14, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-9642 Filed 4-11-75; 8:45 am]

[Docket No. CI75-406]

PHILLIPS PETROLEUM CO.

Order Establishing Procedures and Setting Hearing Date

APRIL 1, 1975.

On December 30, 1974, Phillips Petroleum Company (Applicant) filed an application pursuant to section 7(c) of the Natural Gas Act, for a limited term certificate of public convenience and necessity for a period of one year with pre-granted abandonment authorizing the sale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) from the Read "B" No. 1 well located in Evangeline Parish, South Louisiana. The Applicant proposes to sell the gas at a rate of 85.0 cents per Mcf (15.025 psia) subject to upward and downward Btu adjustments from a base of 1,000.

Applicant commenced an emergency sale of the gas on December 17, 1974, at the proposed rate pursuant to § 159.29 of the Regulations under the Natural Gas Act (18 CFR 159.29) and has been continuing deliveries since February 15, 1975, the expiration date of the 60-day exempt period at the rate subject to refund pursuant to Opinion No. 699-B.

Applicant proposes to continue the sale for one calendar year commencing on February 15, 1975, (the expiration date of the 60-day exempt period) within contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for such quantities that the seller has available on a best efforts basis, and that the buyer desires to purchase with an estimated daily

quantity of 350 Mcf/d, and a maximum of 3,000 Mcf/d.

In support of its limited-term certificate application, Applicant stated that the subject well was drilled as an exploratory well. Applicant allegedly entered into a one year contract dated November 6, 1974, in order to test the well under producing conditions at pipeline pressure. During the proposed one year sale, Applicant proposes to evaluate the underlying reserves and determine whether additional development is necessary. Applicant further states that until the well can be tested and reserves evaluated, the supply of gas will be available only for the limited period for which certification is sought.

In Opinion No. 699-B (52 FPC ____), which reinstated the limited term certificate provisions of § 2.70(b)(3) of the Commission's General Policy and Interpretations, the Commission stated that applicants for limited term certificates "will have the burden of demonstrating by substantial evidence that the price for which certification is sought is the lowest price at which that particular supply of gas may be obtained for the interstate market, and that the supply of gas is available for the limited period for which certification is sought" (Mimeo, page 6). By letter dated January 21, 1975, Applicant was requested to supplement its application in accordance with Opinion No. 699-B to demonstrate by substantial evidence these required facts.

In response Applicant by letter filed on February 10, 1975, advised that it had received an offer from Continental Oil Company to purchase the gas from the subject well at an initial rate of 85.0 cents per MMBtu with escalation of 10.0 cents per MMBtu at the beginning of the second and third years of such proposed sale, but that such sale would have required Applicant to construct approximately 3 miles of line to deliver the gas to Continental Oil Company. Therefore, in view of the construction costs, the limited reserve data, and the time involved in pipeline construction, Applicant elected to enter into a 60-day emergency sale and a subsequent one-year limited-term sale with Transco.

No affiliation of record exists between buyer and seller.

After due notice of the application in the FEDERAL REGISTER on January 21, 1975, (40 FR 3337) no protests or interventions were filed within the period designated for such filings which expired on February 4, 1975. No further petitions to intervene, notices of intervention, or protests to the granting of the application have been filed as of this date of issuance.

Based upon the pleadings before us, we believe that justification for the rate and term of sale as well as other public interest issues, should be established by substantial evidence in a formal record. Accordingly, we will set this application for formal expeditious hearing.

The Commission finds. It is necessary and proper in the public interest and to aid in the enforcement of the provisions

of the Natural Gas Act that the issues in this proceeding be the subject of a formal evidentiary hearing in accordance with the procedures as set forth below.

The Commission orders. Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedures, and the Regulations under the Natural Gas Act, a public hearing shall be held on May 1, 1975, at 10 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by Phillips Petroleum Company in the application filed December 30, 1974.

(B) On or before April 14, 1975, Phillips Petroleum Company and any supporting party shall file with the Commission and serve on all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority (18 CFR 3.5(d))—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-9643 Filed 4-11-75; 8:45 am]

[Docket No. E-9347]

PUBLIC SERVICE CO. OF INDIANA, INC.

Change in Interconnection Agreement

APRIL 7, 1975.

Take notice that on March 31, 1975, Public Service Company of Indiana, Inc. (PSCI) tendered for filing the fourth supplemental agreement to the Interconnection Agreement between PSCI and Southern Indiana Gas and Electric Company (SIGECO). The Interconnection Agreement is designated PSCI Rate Schedule FPC No. 207. The proposed effective date is April 1, 1975. The supplemental agreement will increase the demand charge for Short Term Power.

Filed concurrently was a Certificate of Concurrence on behalf of SIGECO which expresses SIGECO's assent and concurrence with the changes. A copy of the filing has been sent to SIGECO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person

wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9644 Filed 4-11-75;8:45 am]

[Docket No. RP75-84]

SOUTHERN NATURAL GAS CO.
Proposed Changes in FPC Gas Tariff

APRIL 7, 1975.

Take Notice that Southern Natural Gas Company (Southern), on March 31, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes are based on the 12-month period ending December 31, 1974, as adjusted, and would increase jurisdictional revenues by \$91,080,244.

Southern states that the principal reasons for the proposed rate increase are to reflect (1) an increase in the overall rate of return of 10.69 percent; (2) an increase in the composite book depreciation rates of 8.5 percent for Southern's supply system and 5.25 percent for Southern's transmission system; (3) to adjust Southern's plant for Construction Work in Progress; (4) to reflect increased operation and maintenance expenses, including purchased gas costs and expenses for gas from Company-owned production and from independent producers; and (5) to reflect increased levels of advance payments to producers.

Copies of the filing have been served upon Southern's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 25, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9645 Filed 4-11-75;8:45 am]

[Docket No. E-8867]

WISCONSIN PUBLIC SERVICE CORP.
Extension of Procedural Dates

APRIL 7, 1975.

On March 26, 1975, Staff Counsel filed a motion to extend the procedural dates

fixed by order issued August 23, 1974, as modified by notice issued January 20, 1975, in the above-designated matter. The motion states that no party objects to the change.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

PHASE I

Staff Evidence Service, June 10, 1975.
Intervenor's Evidence Service, June 24, 1975.
Rebuttal Evidence Service, July 8, 1975.
Hearing, July 22, 1975 (10 a.m. e.d.t.).

PHASE II

Intervenor's Evidence Service, July 28, 1975.
Staff Evidence Service, August 11, 1975.
Company Evidence Service, August 25, 1975.
Rebuttal Evidence Service, September 8, 1975.
Hearing, September 23, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-9646 Filed 4-11-75;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 2-75]

CHICAGO, ILLINOIS

**Application for a Foreign-Trade Zone;
Public Hearing**

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Chicago Regional Port District, Chicago, Illinois, requesting a grant of authority for the establishment of a foreign-trade zone in Chicago, a Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81) and the regulations of the Board (15 CFR Part 400). It was formally filed on April 8, 1975. Under Illinois law (Act of June 6, 1951, sec. 8.01), the Chicago Regional Port District, a municipal corporation, has authority to apply for the right to establish, operate and maintain foreign-trade zones within the State.

The proposal calls for a foreign-trade zone of 25 acres within an industrial park site owned by the applicant and located in Chicago's Lake Calumet Harbor area. An adjacent warehouse with 72,000 square feet of usable space would be included in the zone. The warehouse is located on the Harbor's sea channel and is served by a 45 foot wharf. The industrial park would be prepared for the construction of such individual plants as are required by zone tenants, with a general use building being constructed if user interest warrants. The area is also served by rail and highway and O'Hare International Airport is 25 miles distant.

The application includes information and economic data concerning the basis for a zone facility to serve the special Customs needs of the area's business community. The proposed zone is intended to augment the Port District's overall efforts for industrial development in the Lake Calumet Harbor area. Operator of the zone complex for the Port

District would be CCS International, a limited Partnership under Illinois law. The firm was selected under the Chicago Regional Port District's bidding procedures. Interested zone users include: an electronics firm; a distributor of foreign bicycles and sporting goods; a manufacturer of printing presses; and, a textile retailer.

In accordance with the Board's regulations an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Gerald M. Marks (Chairman), Acting Regional Director, U.S. Department of Commerce Regional Office, 1406 Mid Continental Plaza Building, 55 E. Monroe Street, Chicago, Illinois 60603; Donald E. Grimwood, Director, Inspection and Control Division, U.S. Customs Service, Region IX, 55 E. Monroe Street, Chicago, Illinois 60603; and Colonel James M. Miller, District Engineer, U.S. Army Engineer District Chicago, 219 S. Dearborn Street, Chicago, Illinois 60604.

In connection with its investigation of the proposal the examiners committee will hold a public hearing beginning at 9:30 a.m., local time, May 14, 1975, at the Dirksen Federal Office Building (Room 1644), 219 S. Dearborn Street, Chicago, Illinois. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners committee.

Interested persons are invited to present their views at the hearing. They should notify the Board's Executive Secretary in writing by May 7 at the address below of their desire to be heard. In lieu of an oral presentation, written statements may be submitted to the examiners committee through the Executive Secretary at any time from the date of this notice through May 29, 1975. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Office of the Director
Inspection and Control Division (Suite 1501)
U.S. Customs Service, Region IX
55 E. Monroe Street
Chicago, Illinois 60603
Office of the Chicago Regional Port District
12900 Butler Drive
Lake Calumet Harbor
Chicago, Illinois 60633
Office of the Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce (Room 6886B)
Washington, D.C. 20230

Dated: April 8, 1975.

JOHN J. DA PONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.75-9616 Filed 4-11-75;8:45 am]

OFFICE OF THE FEDERAL REGISTER
FREEDOM OF INFORMATION INDEX REQUIREMENTS
Guide to Agency Material; January-March, 1975

5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Recent amendments (Pub. L. 93-502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the first quarter of 1975 in order to notify the public of the availability of these indexes for sale and/or public inspection.

Agency and subagency name	Index title; period covered; brief description of contents	Order from; price; make checks payable to	For inspection, copying or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS Handbooks: Current listing of all administrative staff manuals.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250. No charge.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250. No charge.
Do.....	Marketing Quota Review Committee Determinations; 1969-1974; listing by crop year of all decisions made on marketing quota appeals.	Do.....	Do.....
Do.....	Board of Contract Appeals Decisions; 1969-1974; listing of all decisions on appeals affecting ASCS and/or CCC.	Do.....	Do.....
Do.....	CCC Board dockets; 1969-1974; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250. No charge.	Director, Data Systems Division, ASCS, USDA, 14th and Independence Ave. SW., Washington, D.C. 20250. No charge.
Rural Electrification Administration.	Index of current REA publications—electric program as of February 25, 1975. An alphabetic and numerical index of REA electric program bulletins, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043-S, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043-S, Washington, D.C. 20250.
Do.....	Index of current REA publications—telephone as of March 18, 1975. An alphabetic and numerical index of REA telephone program bulletins, contract forms, specifications, sections of the telephone engineering and construction and telephone operations manuals, and the rules and regulations of the Rural Telephone Bank.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043-S, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043-S, Washington, D.C. 20250.
Department of Defense, Department of the Air Force.	Numerical index of Departmental Forms (AFR 0-9). December 6, 1974. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock, \$2.81 per copy; reproduced copies, \$5.75 per copy; shelf stock will be used while it lasts. Treasurer of the United States.	DADF at nearest Air Force installation.
Do.....	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). September 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, \$2.05 per copy; reproduced copies \$2 per copy; shelf stock will be used while supply lasts. Treasurer of the United States.	DADF at nearest Air Force installation.
Do.....	Numerical index of standard publications and recurring periodicals (AFR 0-2). February 7, 1975. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force installation. Shelf stock, \$2.79; reproduced copies \$5.65; shelf stock will be used while supply lasts. Treasurer of the United States.	DADF at nearest Air Force installation.
Do.....	Miscellaneous Air Force and other Government Agency publications (AFR 0-16). October 1, 1974. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, \$2.09 per copy; reproduced copies, \$2.15 per copy; shelf stock will be used while supply lasts. Treasurer of the United States.	DADF at nearest Air Force installation.
Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1, index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications and DOD publications), basic dated November 1973, w/change 3, 30 August 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$4.30. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do.....	DA pamphlet 310-2, index of blank forms, basic dated May 1974, w/change 1, December 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$2.50. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do.....	DA Pamphlet 310-3, index of doctrinal, training, and organizational publications (field manuals, reserve officers' training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables and trajectory charts, tables of organization and equipment distribution and allowances). Basic dated August 1973, w/Change 4, August 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$3.55. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do.....	DA pamphlet 310-4, index of technical manuals, technical bulletins supply manuals (types 7, 8, and 9) supply bulletins, and lubrication orders. Basic dated August 1973, w/change 3, April 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$9.25. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do.....	DA pamphlet 351-6, index of supply catalogs and supply manuals. Basic dated July 1974, w/Change October 74 (1).	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$3.50. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do.....	DA pamphlet 310-7, index of equipment modification works orders, December 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: \$3.50. Checks payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.

Agency and subagency name	Index title; period covered; brief description of contents	Order from; price; make checks payable to	For inspection, copying or additional information contact
Federal Trade Commission...	Final Orders and Opinions, ¹ bound volumes of decisions, July 1967 to June 1973. Advisory Opinions, ¹ Bound volume, July 1967 to December 1968. Index of advisory opinions subsequent to above date is in bound volumes of decisions. Final Orders and Opinions, Supplemental Index, July 1973 to March 1975. Enforcement Statements, July 1967 to March 1975. Trade Regulation Rules, July 1967 to March 1975. Manuals—Operating..... Administrative.....	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, \$5-\$12 ea. Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, \$2.25. Legal and public records, FTC, Room 130, Sixth and Pennsylvania Ave. NW., Washington, D.C. 20580, per pg. \$0.10. do..... do.....	Legal and public records, Federal Trade Commission, Room 130, Sixth and Pennsylvania Ave. NW., Washington, D.C. 20580.
National Transportation Safety Board.	Initial Decisions of Administrative Law Judges, Apr. 4 1967-Mar. 31, 1975; chronological listing (by date of service) of initial decisions after hearings on appeal involving airman and/or air safety certificates. Safety Enforcement Decisions, May 18, 1967-Mar. 31, 1975; alphabetical and numerical listings (by EA and EM order No.) of final opinions and/or orders of the Board on appeal from initial decisions of NTSB administrative law judges and Commandant, U.S. Coast Guard. NTSB Directives Checklist as of Jan. 9, 1975; numerical listing (by NTSB order No.) of staff operational directives.	Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Fees for duplication and instructions for payment will be included in letter of acknowledgment to requester.	Chief, Public Inquiries Section, Room 806-B, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room: Room 806-B.
Postal Rate Commission.....	Postal Rate Commission Index.....	Secretary of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L Street NW., Washington, D.C. 20268.
Tennessee Valley Authority.....	Index to General Administrative Releases; covers period through March 1975; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: \$2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.

APRIL 8, 1975.

[FR Doc.75-9739 Filed 4-11-75; 8:45 am]

FRED J. EMERY,
Director, Office of the Federal Register.

FEDERAL RESERVE SYSTEM THE CITIZENS AND SOUTHERN CORP.

Order Approving Retention of Carolina National Mortgage Investment Company and CN Mortgages, Inc.

The Citizens and Southern Corporation, Charleston, South Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c) (8) of the Act and § 225.4(b) (2) of the Board's Regulation Y, to retain all of the voting shares of Carolina National Mortgage Investment Company, Inc. ("Carolina Mortgage"), and its indirect subsidiary, CN Mortgages, Inc., both located in Charleston, South Carolina.¹

Carolina Mortgage would, upon approval, continue to engage directly in the activities of a mortgage banking company and, through its ownership of CN Mortgages, Inc., to engage indirectly in the activities of a second mortgage lender. Carolina Mortgage would also continue to act as agent in the sale of credit life, accident and health insurance to its borrowing customers. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1), (3) and (9)).

¹ On December 15, 1970, Applicant acquired Carolina Mortgage and merged it into Citizens Mortgage Corporation, a wholly-owned subsidiary of Applicant. At the same time, Applicant indirectly acquired shares of CN Enterprises, Inc., Charleston, South Carolina, a 49 percent owned subsidiary of CN Mortgages, Inc. CN Enterprises, Inc. engages in real estate development. Applicant is not

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors has been duly published (40 FR 7007). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c) (8) of the Act. (12 U.S.C. 1843(c) (8)).

Applicant controls one banking subsidiary, Citizens and Southern National Bank of South Carolina ("C&S Bank"), with deposits of approximately \$461 million, representing 12.3 per cent of the deposits in commercial banks in South Carolina, and is the second largest banking organization and bank holding company in the State.² In addition to Carolina Mortgage, Applicant has five non-banking subsidiaries respectively engaged in data processing, holding bank premises, community rehabilitation, mobile home financing, and providing bank management advisory services.

C&S Bank is engaged in making mortgage loans for its own account. It appears, however, that most of its loans at the time it acquired Carolina Mortgage were construction loans and loans on nonresidential property. At the time of acquisition, though, C&S was engaged in

seeking approval to retain CN Enterprises, Inc. which is subject to the prohibitions in § 4(a) (2) of the Act. It is the intention of Applicant to divest the assets of CN Enterprises, Inc. by December 31, 1980.

² Unless otherwise indicated, all banking data are as of June 30, 1974, and reflect bank holding company formations and acquisitions approved through February 28, 1975.

making some 1-4 family residential mortgage loans.

Although it also originated construction loans and mortgages on nonresidential property, Carolina Mortgage's loan originations during 1970 were to a great degree comprised of mortgages on 1-4 family residences. The major geographic markets affected by the acquisition are approximated by the Charleston, Columbia, and Greenville Standard Metropolitan Statistical Areas and Spartanburg County, all in South Carolina. At the time of the acquisition and thereafter, the economy of these areas was expanding with an attendant rise in housing demand and growth. During the period 1970 to 1973, these areas were among the fastest growing in the country. Carolina Mortgage accounted for approximately 5.7, 2.3, and 3.6 per cent of 1-4 family residential mortgage loan originations during 1970 in the first three markets respectively.³ C&S Bank's market shares in those markets were approximately 2.5, 0.5, and 0.3 per cent, respectively, at the time. As of June 30, 1971, Carolina Mortgage was the 174th largest mortgage company in the country, based on a servicing volume of \$119 million. Its mortgage servicing portfolio has increased by \$76 million since it ceased operating as an independent mortgage company.

It is estimated that there were 18, 23, and 26 residential mortgage competitors respectively in the Charleston, Columbia,

³ Market shares are based upon Applicant's estimates of total 1-4 family mortgage originations. No such estimate is available for Spartanburg County.

and Greenville markets in 1970. Considering the number of residential mortgage banking competitors already in those markets and the respective market shares of C&S Bank and Carolina Mortgage, Applicant's acquisition of Carolina Mortgage had only slightly adverse effects on competition in the origination of 1-4 family residential mortgage loans.* The slight adverse competitive effect of the acquisition is outweighed by the public benefits which appear to have resulted from Applicant's acquisition of Carolina Mortgage. Affiliation has provided greater access to capital markets for Carolina Mortgage and thereby increased the amount of its available funds to meet the growing credit demands for housing and other construction in its respective mortgage markets. The Board concludes that the potential public benefits outweigh the adverse effect resulting from the affiliation at the time of the acquisition.

The Board's review of the record of affiliation indicates that public benefits have continued to outweigh the slight adverse effect on competition. Through Applicant's support, Carolina Mortgage has increased its servicing volume to nearly \$197 million, and it is now the 151st largest mortgage company in the country. During the post-acquisition period (1970 to 1973), Carolina Mortgage increased its originations by nearly 247 per cent. In addition, Carolina Mortgage has entered *de novo*, thereby stimulating competition, two new geographic markets: Atlanta, Georgia, and Knoxville, Tennessee. The Board believes that the affiliation is sufficiently likely to continue to produce public benefits in the foreseeable future so that, on balance, divestiture would be contrary to the public interest.

Carolina Mortgage also sells credit-related insurance on the loans it originates. Due to the limited nature and scope of its insurance activities, it does not appear that the acquisition of Carolina Mortgage's insurance activities had any significant effect on either existing or potential competition. The activities of CN Mortgages, Inc. (total assets of \$4.8 million) are likewise so limited in scope that its acquisition did not have any significant competitive effects.

There is no evidence in the record to indicate that the proposed retentions would lead to an undue concentration of resources, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance

* It appears that the acquisition also eliminated competition between C&S Bank and Carolina Mortgage in the origination of construction loans and the origination of mortgages upon nonresidential property. Geographic markets for these services are regional in scope and the amount of competition eliminated is not deemed significant.

Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns and Governors Sheehan and Coldwell.

with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to result in benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, and to prevent evasion thereof.

By order of the Board of Governors,
effective April 2, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-9596 Filed 4-11-75; 8:45 am]

DAUPHIN DEPOSIT CORP.

Formation of Bank Holding Company

In FR document 75-8636 appearing at page 15009 of the issue for Thursday, April 3, 1975, the name of the bank to be acquired should read "Dauphin Deposit Trust Company, Harrisburg, Pennsylvania, with a resultant name change to Dauphin Deposit Bank and Trust Company."

Board of Governors of the Federal Reserve System, April 8, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-9669 Filed 4-11-75; 8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of Proposal

The following request for clearance of a report form intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on March 4, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

Request was made for approval of revised FEA-P105-S-0, Complainant's Report. This is a revision of the FEO-1. This form is to be filed for any type of complaint relating to the Mandatory Petroleum Allocation and Price Regulations. Potential applicants are expected to number about 20,000.

Based on the nature of the revisions which eliminated certain questions and revised instructions, GAO believes the burden has been reduced. Therefore, GAO provided expedited clearance of revised form FEA-P105-S-0 under number B-181254 (R0171). This clearance expires June 30, 1976.

CARL F. BOGAR,
Regulatory Reports Review.

[FR Doc.75-9660 Filed 4-11-75; 8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on April 4, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the Federal Register is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before April 28, 1975 and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL TRADE COMMISSION

Request for review and clearance of a new single-time questionnaire, "Used Car Study". The questionnaire is a single-time collection of information concerning used motor vehicle sales and warranty practices from private consumer protection organizations. The survey will be a form letter sent to consumer organizations in all of the 54 states and territories. Response will be voluntary. The information obtained may be utilized in a subsequent rulemaking proceeding mandated by sections 109(b) and 112(c) of Pub. L. 93-637. The average respondent burden is estimated at five hours for each of the approximately 100 recipients.

Request for review and clearance of a new single-time questionnaire, "Used Car Study". The questionnaire is a single-time collection of information concerning used motor vehicle sales and warranty practices from State, Territorial, and Local Consumer Protection Officials. The survey will be a form letter sent to Consumer Protection Officials in all of the 54 states and territories. Response will be voluntary. The information obtained may be utilized in a subsequent rulemaking proceeding mandated by sections 109(b) and 112(c) of Pub. L. 93-637. The average respondent burden is estimated at five hours for each of the approximately 200 recipients.

CARL F. BOGAR,
Assistant Director,
Regulatory Reports Review.

[FR Doc.75-9659 Filed 4-11-75; 8:45 am]

GENERAL SERVICES ADMINISTRATION

VOLUNTARY AGREEMENT AND PROGRAM RELATING TO THE INTERNATIONAL ENERGY PROGRAM

Approval of the Administrator of General
Services and the Attorney General

Correction

CROSS REFERENCE: For a document correcting a previously published document dealing with the above matter, see the Federal Energy Administration material in this "Notices" section, supra.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

ELECTRIC FACE EQUIPMENT STANDARD

Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP Docket No. 4261-000, W. & B. COAL COMPANY, Elkhorn Seam No. 3 and No. 3 Mine, Mine ID No. 15 02307 0, Mousie, Kentucky;

ICP Permit No. 4261-002-R-1 (Kersey Rubber Tired Mining Scoop, Ser. No. 691C7).

In accordance with the provisions of section 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 8, 1975.

[FR Doc.75-9578 Filed 4-11-75;8:45 am]

ELECTRIC FACE EQUIPMENT STANDARD

Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP Docket No. 4323-000, EDDIE COAL COMPANY, INC., Mine No. 14, Mine ID No. 15 01654 0, Elkhorn City, Kentucky; ICP Permit No. 4323-001-R-3 (Joy 14BU7 Loader, L.D. No. 1).

In accordance with the provisions of section 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given

that requests for public hearing as to an application for a renewal permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

C. DONALD NAGLE,
Vice Chairman,
Interim Compliance Panel.

APRIL 9, 1975.

[FR Doc.75-9579 Filed 4-11-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

MUSIC PROGRAM

Guidelines for Fellowship-Grants to Composers/Librettists

The following are guidelines for grants made under the Music Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline date for Fellowship-Grants to Composers/Librettists is May 15, 1975.

Interested persons should contact Walter Anderson, Director, Music Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634-6390 for further information and application forms. Only the Music Program office may distribute application forms.

Signed at Washington, D.C. on March 20, 1975.

FANNIE TAYLOR,
Director,
Program Information.

FELLOWSHIP-GRANTS TO COMPOSERS/LIBRETTISTS PERIOD OF SUPPORT: JANUARY 1976-DECEMBER 1976

In Fiscal Year 1976 (July 1, 1975-June 30, 1976) the National Endowment for the Arts plans to award grants to assist composers and librettists.

In recommending this program two years ago, the National Council on the Arts designated this program a bicentennial activity in recognition of the enormous wealth of individual creative talent America possesses. The Council believed then, as now, that these Fellowship-Grants within the disciplines of composition and the writing of librettos will aid the building of a greater American musical legacy.

DEADLINE

Applications must be postmarked no later than May 15, 1975. Generally, the proposed period of grant support should not begin prior to January 1, 1976 but may extend through December 31, 1976.

The deadline will be adhered to strictly. Applications and other materials postmarked later than May 15, 1975 will not be considered under this fiscal allocation. Failure to submit all materials by this date may result in the return of the application to the sender.

Notices of approval or rejection will not be sent before December 15, 1975.

Applications may be obtained by writing to the Music Program, National Endowment for the Arts, Washington, D.C. 20506, and requesting Individual Application Forms, NEA-2 (Rev.), for the Composer/Librettist Program.

Application forms will be sent only to the individual applying; organizations may not request forms on behalf of individuals.

The completed application forms, in triplicate, and accompanying information should be returned to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

GENERAL PURPOSE

The purpose of this program in support of individuals is to encourage:

- (1) The creation of new composition or the completion of works in progress;
- (2) The creation of new librettos or the completion of librettos in progress;
- (3) The professional development of the composer or librettist.

ELIGIBILITY

By statute, the National Endowment for the Arts limits its fellowship programs to the awarding of grants to individuals of exceptional talent. Eligibility is further limited to individuals who can give evidence of the successful completion of the necessary foundations in training.

Please note that the Endowment funds a separate program to benefit composers of jazz. It may be advisable for these composers to request the Jazz/Folk/Ethnic Program Guidelines from the Music Program, National Endowment for the Arts, Washington, D.C. 20506.

LIMITATIONS

(1) This program funds the individual musician or librettist and does not fund production costs or fees of other persons associated with production elements such as lighting design, choreography, costuming, scenic design or non-musical graphic representation. For information regarding other areas of support within the Endowment, contact specific Programs or request *Guide to Programs* by writing to the Program Information Office, National Endowment for the Arts, Washington, D.C. 20506.

(2) Although the Endowment seeks information regarding plans for recording, it should be noted that, at the current time, it is not the policy of the Endowment to support recording costs.

(3) This program is for active composers and librettists; support is not intended to provide assistance to develop or complete master's degree theses or doctoral dissertations.

(4) The Music Program of the Endowment does not fund creative endeavor associated with the fields of music generally known as "rock" and "popular" in recognition of their commercial viability.

(5) Applications will be returned to the applicant if the individual does not meet the eligibility criteria or the proposed project does not fall within the scope of these guidelines. If, however, a valid application has been submitted in the wrong category, the Endowment may change that application to the correct category and will notify the applicant of such action.

(6) No request exceeding the stated maximums within each category will be considered.

(7) The applicant may submit application in one category only. It is preferred that, for larger idioms, only one new work be included in the project description for applicants in Categories I and II.

(8) Generally, fellowship-grants will not be awarded to the same individual in consecutive years.

CATEGORIES OF SUPPORT

CATEGORY I

Non-matching fellowship-grants of up to \$10,000 to exceptionally talented composers for the creation of new works or the completion of works in progress. Such support will be inclusive of the individual's time, copying and reproduction costs, or other services necessary to complete the work(s).

CATEGORY II

Non-matching fellowship-grants of up to \$7,500 to exceptionally talented librettists for the creation of new works or the completion of works in progress. Applicants must show evidence of expertise in the opera/lyric theater styles. Such assistance will be limited to the support of the individual's time, copying and reproduction costs, or other services necessary to complete the work(s).

CATEGORY III

Non-matching fellowship-grants of up to \$2,500 to aid the professional development of the composer or librettist of exceptional talent. Such assistance will be limited to:

- (1) Expenses necessary to provide time for research and limited expenses for the purchase of other composers' scores or librettos in order that the aspiring composer or librettist may have continuing rapport with the field, be knowledgeable concerning new technological developments, and be in a position to study and explore the current trend toward new aesthetic concepts;
- (2) Copying and reproduction costs of scores and parts of completed works;
- (3) Expenses necessary to prepare tape recordings or excerpts of works for the purpose of providing samples for the review of performers, publishers, or recording firms;
- (4) Transportation costs and lodging expenses required to discuss work(s) with conductors, artistic directors, and publication and/or recording representatives.

CATEGORY IV

On a pilot basis, a limited number of non-matching fellowship-grants of up to \$10,000 will be awarded to nationally recognized composers of established ability to allow the individual composer to have free time for working at his/her discretion. This time might include experimenting in new media. Assistance will be inclusive of the individual's time, copying costs, travel and other expenses.

Note for All Categories: Applicants should indicate clearly on the application form the category under which support is requested.

Because of the limited funds available and the anticipated number of applications, generally fellowship-grants will be awarded in amounts less than the stated maximums within each category of support.

REQUIREMENTS FOR COMPLETION OF THE APPLICATION

INDIVIDUAL APPLICATION FORM NEA-2 (REV.)

All application forms must be typed and submitted in triplicate. All essential elements of the proposal must be included in a concise project description in the space provided on the first page of the application. If additional space is needed, no more than one additional 8½" x 11" page may be attached to each of the application forms.

Only information requested on the application form itself is submitted in triplicate. Applicants should send only one copy of reviews, supporting statements, letters (s) of interest and samples of previous works.

Applicants are asked to retain copies of all recordings, librettos and musical scores as the Endowment cannot accept responsibility for loss of materials.

While the entire form must be completed we ask that particular attention be paid to the following information requested on the application:

- (1) Address, including dates of any temporary mailing address;
- (2) All applicable telephone numbers;
- (3) Project description in the space provided:
 - (a) Description of the work(s) or project(s) to be composed or completed;
 - (b) Detailed information on costs of supplies and costs of equipment needed to carry out the project (to be shown as materials);
 - (c) Categories I and II:
 - (i) specific medium involved
 - (ii) duration
 - (iii) performing forces required (size)
 - (d) Category IV—Individuals wishing to be considered for fellowship-grants in this category should indicate under "Description of Proposed Activity" what might be done if a fellowship-grant is awarded. A specific project is not obligatory, but a project should be described if the applicant has one in mind.

For assistance with opera/lyric theater collaborative projects, each applicant should submit a separate application. Composers and librettists applying for aid for collaborative projects should not submit a joint application. Instead, each applicant should enclose with his/her application a letter of intent with regard to collaboration from the other applicant. However, both applications directed toward the same project will be screened jointly and considered as a single project.

The Music Staff advises applicants to study carefully, point by point, the "General Purpose" and "Categories of Support," as described earlier, before they submit their applications. Applicants are urged to retain duplicates of any materials sent to the agency.

ADDITIONAL REQUIRED MATERIALS

Required of Applicants in All Categories Unless Otherwise Indicated:

- (1) Reviews of previous performances. Include sources and dates of reviews. Such reviews are requested to validate public performances and specific context of the performance. If reviews are not available, the applicant should state so. (Not required of applicants in Category IV.)
- (2) Supporting statements from two recognized authorities in the field directed toward works of recent date. Supporting statements are requested to affirm the applicant's professional standing as evidenced by other professionals in the field. Such statements, which will remain in the Endowment's files, are confidential and should be sent directly by the writer to the Composer/Librettist Music Program, National Endowment for the Arts, Washington, D.C. 20506. (Not required of applicants in Category IV.)
- (3) Written evidence of interest.
 - (a) Categories I and II—Written evidence of performance interest should be submitted from a performer, producer, conductor, director or other person charged with production responsibilities.
 - (b) Category III—Written evidence of interest should be submitted from a proposed consultant, e.g., an authority in the field, a publication and/or recording representative. If the project is research, the applicant should prepare a statement indicating where the research is to be conducted, its purpose, specific subject matter, and whether the research is independent or with a designated authority.

A statement of interest is requested to show that funded projects will be publicly

performed or published. At the least, the document submitted should state that the completed project will be examined with performance in mind. Such statements are confidential and should be sent directly by the writer to the Composer/Librettist Music Program, National Endowment for the Arts, Washington, D.C. 20506.

(4) Letters indicating collaborative effort:

- (a) Each applicant applying for aid of collaborative opera/lyric theatre projects in Categories I and II should request a letter from the collaborating partner to indicate interest in the proposed collaboration;
- (b) Such letters should be submitted whether or not the other member(s) of the team has applied for assistance;
- (c) All such letters will be used in cross-referencing the applications so that applications concerned with collaborative effort can be considered as one project.

(5) Samples of recent work(s). The examining committee prefers that all samples of previous work be indicative of the applicants' ability to comprehend the medium and to work successfully in the idiom as presented in the application.

At least one score (or libretto) and one tape or recording must be submitted for review in the following manner:

- (a) One score (or libretto) properly labelled with the applicant's name, the date of composition, and the title of work. Instrumentation should be specified. If possible, scores of the recorded or taped work should be sent and
- (b) One tape, 7" reel, 7½ ips, leader tape of sufficient length between compositions to quickly locate separate works, head out, in a tape box, properly labelled with the applicant's name, the work(s) enclosed, the date of the recording, the date of composition, and the name of performer(s) or ensemble or
- (c) One recording, properly labelled with the applicant's name, date of composition, and date of recording.

Because of the increasing number of applications, all applicants are asked to be selective when submitting materials for examination by the Music Advisory Panel.

- (6) Category II, only:
 - (a) The name of the composer involved;
 - (b) Information concerning previous successful use of librettos by the applicant;
 - (c) A synopsis of the work involved;
 - (d) Evidence that rights to adapt the literary work have been obtained.

Note: For all applicants in the opera/lyric theatre mediums: A requirement of the application file is the submission of a short sample of the libretto for which support is requested. A sample of the libretto set to music would be helpful although it is not required.

GENERAL INFORMATION

APPLICATION PROCESSING

The application, if not completed properly, will be returned to the applicant for corrections. The Endowment cannot accept responsibility for delays occasioned by the late arrival of applications or requests which have been improperly submitted.

Incomplete application files—If an application form is incomplete and/or if all additional required material has not been submitted, the application may be rejected because of insufficient information for review.

Tapes, scores, recordings, and manuscripts received at the Endowment will be returned although the Endowment cannot accept responsibility for losses incurred en route. In addition, applicants should re-examine the statement on responsibility for articles submitted for review, found on page 4.

APPLICATION REVIEW

After an application with all necessary information has been received, the file will be reviewed as follows:

(1) The Endowment Music staff, the Composer/Librettist Advisory Panel, and the National Council on the Arts successively review the application;

(2) The applicant is notified concerning final action taken by the Chairman of the Endowment.

All applications are judged on the quality of the works submitted for review. At no time does the length or medium of the proposed project become a determining factor in the deliberations of the reviewing bodies.

Notices of conditional approval or rejection will be sent only as the Chairman authorizes. Applicants are requested not to seek information on the status of their requests. While the Endowment welcomes expressions of interest in a project, extraordinary pressures beyond direct negotiations are not helpful.

FINAL REPORTS

At the conclusion of the grant period, the Endowment requires final reports from all grantees. Complete instructions on final reporting will accompany the fellowship-grant letter. All grantees are required to submit the following:

(1) A narrative report describing what was accomplished during the grant period;

(2) A copy of the score created as a result of the grant and, if a performance takes place, a copy of a tape of the work, if possible.

PERFORMANCE OF CONTEMPORARY MUSIC

The Endowment is investigating the possibility of establishing contemporary performance institutes throughout the country to bring the composer, performer, conductor, and critic into a working relationship for creative exchange and expanded understanding. Through workshop sessions devoted to the reading of the composer's work it is hoped that these exchanges might result in the increased programming of American compositions in American performance halls.

TAXABILITY OF FELLOWSHIP-GRANTS

The Internal Revenue Code regulations provide that certain fellowships to individuals who are not candidates for degrees are deductible, but only up to a certain amount and for a limited period of time.

A pamphlet entitled *Tax Information for American Scholars in the U.S. and Abroad* will be supplied on request. Generally, this booklet is available at any Internal Revenue Service office. The booklet might be helpful in preparing an application for a proposed fellowship.

The Endowment cannot advise you as to the deductibility of all or any portion of a fellowship, should one be awarded to you. Advice should be sought from your own tax counselor or local Internal Revenue Service office.

[FR Doc.75-9599 Filed 4-11-75; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-510 and 50-511]

GULF STATES UTILITIES CO. BLUE HILLS STATION, UNITS 1 AND 2

Application for Construction Permits and Facility Licenses

Gulf States Utilities Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended,

has filed an application, which was docketed August 23, 1974, for authorization to construct and operate two generating units utilizing two pressurized water nuclear reactors. Following a preliminary review for completeness, the application was accepted for docketing on July 30, 1974. Docket Nos. 50-510 and 50-511 have been assigned to the application and should be referenced in any correspondence relating to the application.

The proposed nuclear facility, designated by the applicant as the Blue Hills Station, Units 1 and 2, is located in Newton County, Texas, 9 miles west of the Texas-Louisiana border on the Toledo Bend Reservoir, and each unit is designed for initial operation at 2814 megawatts thermal, with a net electrical output of 930 megawatts.

The Nuclear Regulatory Commission staff has commenced the radiological safety review of the application. However, the applicant's environmental report has not been accepted as of this date. After the environmental report is docketed, a separate notice will be published announcing the availability of the environmental report. It is anticipated that the NRC staff's review of the application, including the yet undocketed environmental report, will span two to three years. Under these circumstances, it has been determined at this time that the soonest practicable time for issuance of the Notice of Hearing is October 1975.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Newton County Library, Newton, Texas.

Dated at Bethesda, Maryland, this 7th day of April 1975.

For the Nuclear Regulatory Commission.

KARL KNIEL,

Chief, Light Water Reactors
Branch 2-2, Division of Re-
actor Licensing.

[FR Doc.75-9658 Filed 4-11-75; 8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Emergency Core Cooling Systems, will hold a meeting on April 29, 1975, in Room 1046, 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to discuss analytical models formulated by the Westinghouse Electric Company to meet current ECCS criteria.

The agenda for the subject meeting shall be as follows:

Tuesday, April 29, 1975, 9 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and the Westinghouse Electric Company and will

discuss with these groups analytical models formulated by the Westinghouse Electric Company to meet current ECCS criteria including the use of experimental data, participation in the Standard Problem Program and programs to improve the effectiveness of ECCS.

In connection with the above agenda item, the subcommittee will hold executive sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the executive sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and the Westinghouse Electric Company for the purpose of discussing privileged information such as that contained in WCAP-8202 concerning SATAN-VI Code, WCAP-8170 concerning WREFLOOD Code, WCAP-8301 concerning LOCTA-IV Code, WCAP-8200 Rev. 2 concerning WFLASH Code, WCAP-8327 concerning COCO Code, and WCAP-8341 concerning sensitivity studies.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted executive sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portion of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than April 22, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C., 20555. Such comments shall

be based upon related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 2 p.m. and 3 p.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on April 28, 1975 to the Office of the Executive Secretary of the Committee (telephone 202-634-1374) between 8:15 a.m. and 5 p.m., eastern time (Attn: Mr. T. G. McCreless).

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20555, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after April 30, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room,

1717 H Street NW., Washington, D.C. 20555 after July 29, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: April 11, 1975.

JOHN C. HOYLE,
Acting Advisory Committee
Management Officer.

[FR Doc.75-9817 Filed 4-11-75;9:50 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company (the licensee) for operation of the Maine Yankee Atomic Power Station (the facility), located in Lincoln County, Maine.

In accordance with the licensee's application for a license amendment dated March 27, 1975, the amendment would add provisions in the Technical Specifications relating to the design of the spent fuel storage racks. The licensee proposes to replace the existing spent fuel storage racks which have a capacity of 318 assemblies with anodized aluminum fixed-poolson (Boral) curtain racks which have a capacity of 953 assemblies. This increased capacity would be accomplished as a result of the reduced center-to-center spacing of assemblies in the design of the proposed spent fuel storage racks. Fixed neutron absorbing material is to be used to compensate for the effects of the reduced spacing.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By May 14, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by the proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

and to John A. Ritscher, Esquire, and Thomas G. Dignan, Jr., Esquire, Ropes and Gray, 225 Franklin St., Boston, Massachusetts 02110, attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated March 27, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Maine. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 10th day of April 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors
Branch No. 1, Division of
Reactor Licensing.

[FR Doc.75-9816 Filed 4-11-75;9:50 am]

POSTAL RATE COMMISSION

[Docket No. MC73-1]

MAIL CLASSIFICATION SCHEDULE, 1973

Notice of Further Conferences

APRIL 9, 1975.

Notice is hereby given that the Administrative Law Judge has scheduled the following informal Phase I Settlement Conferences, in the above-designated proceeding, to be held at the times, places, and for the purposes stated:

1. April 15, 1975 (Technical Conference), at 10 a.m., in the offices of the U.S. Postal Service, 475 L'Enfant Plaza West, SW, Washington, D.C., to discuss depreciation systems and cost ascertainment systems.

2. April 16, 1975, at 10 a.m., in the Postal Rate Commission hearing room, Suite 500, 2000 L Street, NW, Washington, D.C., to discuss the non-standard and minimum-size proposals.

The formal hearing in this proceeding will resume on April 14, 1975, at 10 a.m., Postal Rate Commission hearing room.

JAMES R. LINDSAY,
Secretary of the Commission.

[FR Doc.75-9610 Filed 4-11-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-5655]

ALLEGHENY POWER SYSTEM, INC., ET AL.

Proposed Issue and Sale of Common Stock;
Capital Contribution; Proposed Amend-
ment of Articles of Incorporation

APRIL 7, 1975.

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, New York, 10022, Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia, 26554, the Potomac Edison Company, Downsville Pike, Hagerstown, Maryland, 21740, West Penn Power Company, Cabin Hill, Greensburg, Pennsylvania, 15601.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), a registered holding company, and three of its public-utility subsidiary companies, Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("PE"), and West Penn Power Company ("West Penn"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10 and 12 thereof and Rule 50(a) (3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

APS proposes to acquire additional shares of common stock of Monongahela and PE and to make a further investment in the equity of West Penn by means of a capital contribution, in the amounts not to exceed those set forth in the table below, from time to time prior to December 31, 1975.

Subsidiary and title of issue	Shares	Cash consideration
Monongahela: Common stock—\$50 par.....	300,000	\$15,000,000
PE: Common stock—no par.....	500,000	10,000,000
West Penn: Capital contributions.....		15,000,000

The net proceeds of the issuance and sale of common stock by Monongahela and PE and of the cash capital contributions to West Penn will be used by each of them for their construction programs. For the year 1975, construction expenditures in the case of Monongahela, PE, and West Penn are estimated at \$52 million, \$34 million, and \$56 million, re-

spectively. All of the presently outstanding common stock of Monongahela, PE, and West Penn is owned by APS.

Monongahela proposes to amend its charter to increase the number of shares of common stock which it is authorized to issue from 1,960,000 to 2,960,000 shares. PE proposes to amend its charter to increase the number of shares of common stock which it is authorized to issue from 4,625,000 shares to 5,125,000 shares.

It is estimated that total expenses, including legal fees to be incurred by APS, Monongahela, PE, and West Penn, will not exceed \$3,500. Prior authorization of the West Virginia Public Service Commission and the Ohio Public Utilities Commission in the case of Monongahela, and the Virginia State Corporation Commission, the Maryland Public Service Commission, and the West Virginia Public Service Commission in the case of PE, and the Maryland Public Service Commission as to the acquisition of the PE common stock by APS is required in connection with the proposed transactions. Registration by the Pennsylvania Public Utility Commission of a Securities Certificate with respect to the PE issuance of common stock is also required. It is stated that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 29, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-9611 Filed 4-11-75;8:45 am]

[File No. 811-118]

AXE-HOUGHTON STOCK FUND, INC.

Filing of Application

APRIL 8, 1975.

Notice is hereby given that Axe-Houghton Stock Fund, Inc. ("Stock Fund—Maryland"), 400 Benedict Avenue, Tarrytown, New York 10591, registered under the Investment Company Act of 1940 ("Act") as a management open-end investment company, filed an application on February 21, 1975, pursuant to section 8(f) of the Act for an order declaring that its predecessor, Axe-Houghton Stock Fund, Inc. ("Stock Fund—Delaware"), has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application represents that Stock Fund—Delaware was merged on September 13, 1974, into Stock Fund—Maryland and that thereupon the corporate existence of Stock Fund—Delaware ceased and all of its assets and liabilities were transferred by operation of law to Stock Fund—Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 5, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[PR Doc.75-9612 Filed 4-11-75;8:45 am]

[File No. 811-282]

AXE-HOUGHTON FUND A, INC.

Filing of Application

APRIL 8, 1975.

Notice is hereby given that Axe-Houghton Fund A, Inc. ("Fund A-Maryland"), 400 Benedict Avenue, Tarrytown, New York, 10591, registered under the Investment Company Act of 1940 ("Act") as a management open-end investment company, filed an application on February 21, 1975, pursuant to section 8(f) of the Act for an order declaring that its predecessor, Axe-Houghton Fund A, Inc. ("Fund A-Delaware"), has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application represents that Fund A-Delaware was merged on March 15, 1974, into Fund A-Maryland and that thereupon the corporate existence of Fund A-Delaware ceased and all of its assets and liabilities were transferred by operation of law to Fund A-Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 5, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any no-

tices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[PR Doc.75-9613 Filed 4-11-75;8:45 am]

[File No. 811-273]

AXE-HOUGHTON FUND B, INC.

Filing of Application

APRIL 8, 1975.

Notice is hereby given that Axe-Houghton Fund B, Inc. ("Fund B-Maryland"), 400 Benedict Avenue, Tarrytown, New York 10591, registered under the Investment Company Act of 1940 ("Act") as a management open-end investment company, filed an application on February 21, 1975, pursuant to section 8(f) of the Act for an order declaring that its predecessor, Axe-Houghton Fund B, Inc. ("Fund B-Delaware"), has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application represents that Fund B-Delaware was merged on February 14, 1974, into Fund B-Maryland and that thereupon the corporate existence of Fund B-Delaware ceased and all of its assets and liabilities were transferred by operation of law to Fund B-Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 5, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[PR Doc.75-9614 Filed 4-11-75;8:45 am]

[File No. 70-5415]

MIDDLE SOUTH UTILITIES, INC., ET AL.

Post-Effective Amendment Regarding Fuel Transportation Program

APRIL 7, 1975.

In the matter of Middle South Utilities, Inc., P.O. Box 61005, New Orleans, Louisiana 70161, Arkansas Power & Light Company, Ninth and Louisiana Streets, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205, New Orleans Public Service, Inc., P.O. Box 60340, New Orleans, Louisiana 70160, System Fuels, Inc., P.O. Box 61532, New Orleans, Louisiana 70161.

Notice is hereby given that System Fuels, Inc. ("SFI"), a jointly-owned non-utility subsidiary company of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service, Inc., each an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated December 17, 1973 (HCAR No. 18221), the Commission, among other things, authorized SFI to expend and finance not more than \$2,000,000 as its 50 percent share of the then estimated \$4,000,000 total cost of a comprehensive feasibility study relating to a coal slurry pipeline to extend from the State of Wyoming to the State of Arkansas. The other parties to the study now are three nonaffiliated entities which have agreed to supply the balance of the total cost. By supplemental order dated January 23, 1975 (HCAR No. 18785), SFI was authorized to make additional expenditures, through March 31, 1975, of \$500,000, its proportional 50 percent share of an aggregate \$1,000,000 cost over-run.

By a further post-effective amendment, it is now stated that additional expenditures through the end of 1975, prior to determining project feasibility, could be as much as \$1.7 million or as little as

\$800,000 depending upon the date of the disposition of outstanding issues of feasibility, and SFI may need authorization to finance its 50 percent share thereof. Presently, however, SFI requests authorization to make additional expenditures for the study in the amount of \$200,000, towards the estimated costs during the period April 1 through June 30, 1975. On or prior to July 1, 1975, SFI will advise the Commission of the status of the feasibility study and will seek such further Commission authorization as may be necessary at that time.

No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 1, 1975, request in writing; that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-9615 Filed 4-11-75; 8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON COKE OVEN EMISSIONS

Notice of Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Standards Advisory Committee on Coke Oven Emissions, established under

section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on April 28, 29 and 30, 1975, in Birmingham, Alabama; on May 12, 13 and 14, 1975, in Arlington, Virginia; and on May 20, 21 and 22, 1975, in Washington, D.C. The meetings are open to the public and all interested persons are encouraged to attend. It should be noted that the Committee will complete its activity by May 24, 1975, which may necessitate the addition of supplemental meeting dates. Notice of such additional dates will be announced as soon as a determination has been made that it will be necessary in order for the Committee to complete its deliberations and recommendations. Similarly, if the Committee does not need the dates already scheduled in order to complete its activities, the meetings will be cancelled and notice will be given immediately. Interested persons are encouraged to maintain communication with the Committee Management Office (address given below) in order to verify the schedule as Committee activities progress.

1. *Meeting schedule.* The meeting, which will begin at 11:30 a.m. on April 28 in the Tudor Room of the Parliament House Hotel, 420 South Twentieth Street, Birmingham, Alabama, will be followed by a Committee field trip later that same day. The meeting will continue at 9 a.m. at the same location on April 29 and 30.

The field trip on April 28 to the U.S. Steel coke oven facility in Fairfield, Alabama, was requested unanimously by the Committee at its meeting on March 5, 1975. The field trip will be conducted at the invitation of U.S. Steel in accordance with guidelines described below to which U.S. Steel has agreed. In order to provide for an adequate record consistent with the Committee's request, and in order to provide for reasonable public participation, the following guidelines have been established for this field trip:

(a) The Committee resolution requested that a proper stenographic record be made. Arrangements have been made for a court reporter to accompany the Committee with a tape recorder, and for the reporter to prepare a verbatim transcript of the taped remarks.

(b) The Committee resolution requested that a proper photographic record be maintained. Arrangements have been made for U.S. Steel to provide a company photographer to take such photographs as the Committee requests. Other cameras will not be permitted.

(c) An opportunity will be provided for reasonable participation by the public. It has been determined that a total of 20 persons would be a maximum feasible number of participants in the group, given the practical limitations imposed by the nature of the field trip, for example, the size of the coke oven batteries, the hazards from moving equipment on the batteries and the possible interference with the operation of the batteries. This number includes Committee members, Occupational Safety and Health Administration (OSHA) support staff, and the court reporter, which leaves approximately seven members of the public

who can be included in the field trip. In order to determine which members of the public will be included, the OSHA will select on a random basis (drawing) the names of the public participants from among the names submitted. Therefore, persons interested in attending must submit their name, address and phone number either in writing, by telephone, or in person to:

Ms. Jeanne W. Ferrone
Committee Management Office
U.S. Department of Labor—OSHA
1726 M. Street, NW., Room 200
Washington, D.C. 20210
(Phone: 202/961-3181)

The statement of intention to participate in the field trip must be received at the above office no later than close of business on Monday, April 21, 1975, in order that the names may be selected and the persons notified prior to the meeting and the trip. The drawing will be held at 9 a.m. on April 22 and letters of confirmation will immediately be mailed to those selected. The office will also attempt to notify, by phone, those who were selected. If a chosen member of the public is unable to participate, no substitutions will be allowed. Rather, the Department of Labor will notify the next eligible of his opportunity to participate.

2. *May meeting schedules and locations.* The meeting on May 12 will begin at 10 a.m. in the Georgetown Room of the Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia. The meeting will continue on May 13 and 14, beginning at 9 a.m. each day.

The meeting on May 20 will begin at 10 a.m. in the Dupont Room of the Dupont Plaza Hotel, 1616 New Hampshire Avenue, NW., Washington, D.C. Subsequent meetings on May 21 and 22 will begin at 9 a.m. All of these meetings will be open to the public.

3. *Agenda items.* Committee activity will be directed by the Chairwoman and will consist of discussing and formulating recommendations to the Assistant Secretary of Labor. These deliberations will encompass a broad range of topics (for example, medical surveillance, training, education, labeling and posting requirements, personal protective equipment, sampling and analytical methods, engineering and administrative controls, etc.). It is impossible to predict a more precise work schedule at this time.

4. *General information.* These meetings will be the ninth, tenth and eleventh of this ad hoc committee which began its deliberations on November 6, 1974. The Committee will submit its recommendations within 200 days from the date of its initial meeting.

Although persons desiring to make an oral presentation to the Committee may submit a written request to be heard to the Committee Management Office at least three days prior to the meeting date at which the person wishes to appear, these parties are encouraged to submit such comments in writing rather than request oral presentations because oral presentations will necessarily be restricted due to time constraints.

Any member of the public wishing to submit written presentations to the Committee may do so by filing such a statement, together with 20 duplicate copies, with the Committee Management Officer. Such submissions will be provided to the members of the Committee and will be included in the record of the meeting.

The Committee has previously requested relevant information or data regarding the Committee's task. It is important that the Committee receive any such information as quickly as possible. Communications should be addressed to Ms. Jeanne W. Ferrone at the address listed above. All materials which have been submitted to, or developed by, the Committee since the beginning of its deliberations, as well as the official record of all Committee proceedings, are available for public inspection and copying at that same location.

NOTE: It was not possible to meet the requirement for 15 days' advance notice for the April 28-30, 1975, meeting of this advisory committee. Final details and arrangements for the field trip on April 28th were not completed until the end of the day at the April 8, 1975, meeting of this advisory committee, in Washington, D.C.

Signed at Washington, D.C., this 9th day of April, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-9630 Filed 4-11-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 1 (Sub-No. 30)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment Between Blue Earth and Elmore, in Faribault County, Minnesota

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Faribault County, Minn., on or before April 23, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 1st day of April, 1975.

By the Commission, Commissioner
Tuggle.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[AB 1 (Sub-No. 30)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN BLUE EARTH AND ELMORE, IN FARIBAULT COUNTY, MINNESOTA

The Interstate Commerce Commission hereby gives notice that by order dated April 1, 1975, it has been determined that the proposed abandonment by the Chicago and North Western Transportation Company of its line of railroad between Milepost 34.5 near Blue Earth to Milepost 43.5 near Elmore, a distance of 9 miles, all in Faribault County, Minn., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because (1) the low amount of traffic handled on the subject line, (2) the presence of U.S. Highway 169 and other adequate highways in the area, and (3) the availability of at least two nearby rail service sites. In addition, if the abandonment be approved, the Minnesota Department of Natural Resources as well as any other public agency will have the opportunity to offer to purchase all or part of the right-of-way property for public use.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 8, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-9676 Filed 4-11-75;8:45 am]

[Finance Docket Nos. 27608, 27609]

PB R.R., INC.

Construction and Operation, Comal County, Texas; Securities

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the appended notice in a newspaper of general circulation in Comal County, Texas on or before April 24, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register for publication in the Federal Register.

Dated at Washington, D.C., this 2d day of April.

By the Commission, Commissioner
Tuggle.

[SEAL]

ROBERT L. OSWALD,
Secretary.

PB R.R., INC., CONSTRUCTION AND OPERATION—COMAL COUNTY, TEXAS

PB R.R., INC., SECURITIES

The Interstate Commerce Commission hereby gives notice that by order dated April 2, 1975, it has been determined that the proposed construction and operation of a line of railroad by the PB R.R., located southwest of the city of New Braunfels, in Comal County, Texas, a distance of 1.95 miles, and the proposed issuance of securities to finance such construction, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental effects of these action are insignificant because the rail line will not represent a use incompatible with the surrounding land use. The tributary territory is devoted almost exclusively to quarry mining and cattle grazing. There are very few residential homes in the vicinity. Construction of this line will result in only a minimal disruption to the land because the line will be placed on an abandoned railroad bed. The secondary impacts associated with the proposed construction will be environmentally beneficial to the extent it encourages economic development in this section of Comal County.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 9, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-9677 Filed 4-11-75;8:45 am]

DISCOVERY RULES

Policy Regarding Interrogatories

APRIL 7, 1975.

Since the effective date of the Commission's Discovery rules promulgated in Ex Parte No. 55 (Sub-No. 3) and published in 346 I.C.C. 603, the Commission has received a number of pleadings resulting from the use of written interrogatories as provided by Rule 62. In order to avoid misunderstanding by persons affected by these rules, the following policy is hereby adopted.

Under Rule 62, all interrogatories are to be answered unless objected to, in which case the objection is to be stated in lieu of the answer. The replies to interrogatories, whether containing answers or objections, are to be served upon the party submitting the interrogatories within the time limits set forth. A motion to strike interrogatories will not be considered appropriate in lieu of the procedure provided by Rule 62 and will not be received. Petitions for protective orders with respect to interrogatories are deemed premature and will not be considered unless there is pending (a) an order of the Commission pursuant to Rule 67 requiring that answers be furnished or (b) a motion to compel an answer.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-9675 Filed 4-11-75; 8:45 am]

[Notice No. 741]

ASSIGNMENT OF HEARINGS

APRIL 9, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8436, Connecticut Limousine Service, Inc. v. Hyman Levine D.B.A. Hy's Livery Service, now assigned April 21, 1975, at Hartford, Connecticut, has been postponed to May 19, 1975, at Hartford, Connecticut in Room 201 U.S. Post Office, 135 High Street.

I & S, Coal Transfer Charges at Lake Erie Ports, now being assigned May 20, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35794, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.—Petition for Declaratory Order or Investigation, and No. 35852, Northville Dock Pipe Line Corp., Northville Industries Corp., Consolidated Petroleum Terminal, Inc. and Total Resources, Inc.—Investigation of Operation, now assigned April 8, 1975, is postponed to April 28, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

Finance Docket No. 26223, New Hope and Ivyland Railroad Company Reorganization, now being assigned May 20, 1975 (4 days), at Philadelphia, Pa., in Room 3240, William J. Green, Jr. Federal Building, 600 Arch Street.

[SEAL] ROBERT L. OSWALD,
Secretary.
[FR Doc.75-9671 Filed 4-11-75; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 9, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before April 29, 1975.

FSA No. 42971—Joint Water-Rail Container Rates—Japan Line, Ltd. Filed by Japan Line, Ltd., (No. 7), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in Peoples Republic of China. Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-9672 Filed 4-11-75; 8:45 am]

[Notice No. 264]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

APRIL 14, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 5, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75627. By order of March 27, 1975, the Motor Carrier Board approved the transfer to Hi-Cube Trans-

port, Inc., Wales, Mass., of a portion of the operating rights in Certificate No. MC 135127 issued March 25, 1971, to Green Brook Transportation Co., Inc., Green Brook, N.J., authorizing the transportation of general commodities, with exceptions, and specified commodities between specified points and areas in Massachusetts, Rhode Island, Connecticut, New York, and New Jersey. David M. Marshall, 135 State St., Springfield, Mass., 01103, attorney for applicants.

No. MC-FC-75692. By order of March 14, 1975, the Motor Carrier Board approved the transfer to Charles N. Bucholz, doing business as Bucholz Transportation, Watertown, S. Dak., of the operating rights in Permit No. MC 127526 issued June 25, 1970, to Cecil N. Bucholz, Watertown, S. Dak., authorizing the transportation of malt beverages and, in connection therewith, supplies and advertising matter, from Minneapolis, Minn., to Watertown, S. Dak., under continuing contract with Kahnke Beverage Co., and Brewster Distributing Co., both of Watertown. Thomas J. Green, 17 Second Avenue SW., Watertown, S. Dak. 57201, attorney for applicants.

No. MC-FC-75702. By order entered March 17, 1975, the Motor Carrier Board approved the transfer to Wil-Com Truck Line, Inc., Mebane, N.C., of the operating rights set forth in permit No. MC 136471 (Sub-No. 1), issued August 28, 1973, to Claiborn F. Wilkerson, Jr., and Burch C. Compton, doing business as Wil-Com Truck Lines, Mebane, N.C., authorizing the transportation of plastic pipe, from points in Orange County, N.C., to points in South Carolina, Georgia, Alabama, Mississippi, Tennessee, Virginia, Maryland, Florida, Louisiana, West Virginia, Ohio, Delaware, Kentucky, Pennsylvania, and New Jersey; and from Findley, Ohio, Cordele, Ga., and Halls, Tenn., to points in Orange County, N.C., under a continuing contract, or contracts, with Hancor, Inc., of Mebane, N.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-9673 Filed 4-11-75; 8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

APRIL 7, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in

opposition with the Interstate Commerce Commission on or before May 15, 1975. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

MC 1647 (Sub-No. 6G), filed June 4, 1974. Applicant: READING VAN & STORAGE CO., INC., 1846 North West Boulevard, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Jersey, Pennsylvania, Delaware, Maryland, New York, and the District of Columbia; and (2) between the above-named points on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, Georgia, North Carolina, South Carolina, Ohio, West Virginia, Florida, and Virginia. The purpose of this filing is to eliminate the gateway at Egg Harbor, N.J.

No. MC 1872 (Sub-No. 82G), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West, Salt Lake City, Utah 84104. Applicant's representative: F. Robert Reeder, P.O. Box 11898, 79 South State St., Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Contractors equipment and supplies*, between points in Utah and Coconino County, Ariz. north of an east-west line extending through The Gap, Arizona on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, and South Dakota. The purpose of this filing is to eliminate the gateways at points in Utah, Uinta and Sweetwater Counties, Wyo.

(2) *Contractors equipment, materials, and supplies* when also self-propelled articles, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Montana, Nevada, Utah, Idaho, Arizona, New Mexico, Oregon, and Washington, on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Montana, Nevada, Utah, Idaho, Arizona, New Mexico, Oregon, and Washington.

(3) *Contractors equipment, materials, and supplies* when also commodities as require special equipment or handling by reason of size or weight when also commodities which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities which because of

size or weight require the use of special equipment, Between points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Montana, Nevada, Utah, Idaho, Arizona, New Mexico, Oregon, and Washington, on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Montana, Nevada, Utah, Idaho, Arizona, New Mexico, Oregon and Washington. The purpose of this filing is (2) and (3) above is to eliminate the gateways at Utah, Montana, Colorado, and Wyoming.

(4) *Lumber and lumber products*, (4) (a) Between Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, on one hand, and, on the other, points in Teton, Sublette, Lincoln, Uinta Counties, Wyoming points in Nevada, Colorado, and points in Idaho (except points north of the Salmon River). The purpose of this filing is to eliminate the gateways at points in Teton, Sublette, Lincoln, and Uinta Counties, Wyo. and points in Idaho.

(4) (b) From points in Idaho and Montana, to points in Colorado, Utah, and Nevada and points in Teton, Sublette, Lincoln, and Uinta Counties, Wyo. The purpose of this filing is to eliminate the gateways at points within 50 miles of Salt Lake City, Utah and Teton, Lincoln, Sublette, Uinta Counties, Wyo.

(5) *Lumber and lumber products* when also contractors materials and supplies, Between points in Utah, Wyoming, Colorado, Nebraska, Kansas, Iowa, Missouri, South Dakota, Nevada, Idaho (except points north of the Salmon River), and Coconino County, Ariz. (north of the east-west line extending through The Gap, Arizona.) The purpose of this filing is to eliminate the gateways at points in Uinta and Sweetwater Counties, Wyo., and points in Utah. (B) From points in Idaho and Montana to points in Nevada, Utah, Coconino County, Arizona, Wyoming, Colorado, Nebraska, Kansas, Iowa, Missouri, and South Dakota. The purpose of this filing is to eliminate the gateways at Salt Lake City and 50 miles thereof and points in Wyoming.

(6) *Lumber and lumber products* when also building materials, between points in Utah, and Idaho (except points north of the Salmon River), points in Coconino County, Ariz. and Sweetwater and Uinta Counties, Wyo. The purpose of this filing is to eliminate the gateway at Salt Lake City and 50 miles thereof.

(7) *Lumber and Lumber products* when also commodities which do not require the use of special equipment, when moving in mixed loads on the same bill of lading with commodities which because of size or weight require the use of special equipment. (7) (a) Between points in Washington, Oregon, Nevada, Utah, Wyoming, Idaho (south of but not including Idaho County, Idaho), points in that part of Arizona north and west of the Colorado River, points in that part of Colorado on and west of U.S. Highway 85, and points in that part of Idaho south of, but not including, Idaho County, Idaho. (7) (b)

From points in Idaho and Montana, to points in Washington, Oregon, Nevada, Wyoming, points in that part of Arizona north and west of the Colorado River and points in that part of Colorado on and west of U.S. Highway 85.

(8) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, Between points in Arizona, Colorado, Idaho, Montana, Nevada, Utah, Wyoming, New Mexico, Oregon and Washington on the one hand, and, on the other, points in Montana, Nevada, Utah, Wyoming, Idaho, Colorado, Arizona, New Mexico, Oregon, and Washington.

(9) *Such commodities* as require special equipment or handling by reason of size or weight and of *related machinery parts and related materials and supplies*, when the transportation thereof is incidental to the transportation by said carrier of such commodities when also commodities which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities which because of size or weight require the use of special equipment, Between points in Montana, Nevada, Utah, Wyoming, Idaho, Colorado, Arizona, New Mexico, Oregon, and Washington on the one hand, and, on the other, points in Montana, Nevada, Utah, Wyoming, Idaho, Colorado, Arizona, New Mexico, Oregon, and Washington.

(10) *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 when such articles are also commodities which require special equipment or handling because of size or weight when also commodities which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities which because of size or weight require the use of special equipment, Between points in Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Wyoming, Utah, Oregon and Washington. The purpose of this filing is (7), (8), (9), and (10), above is to eliminate the gateways at points in Utah and Montana.

(11) *Sand*, when also building materials, From Hamilton, Wash., to Utah, Nev. points in Sweetwater and Uinta Counties, Wyo., and Coconino County, Ariz. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(12) *Sand* when also contractors supplies, From Hamilton, Wash., to points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Utah and Coconino County, Ariz. The purpose of this filing is to eliminate the gateways at Salt Lake City, Utah, and points in Uinta and Sweetwater Counties, Wyo.

(13) (a) Between points in Utah, and Nevada, and points in Sweetwater and Uinta Counties, Wyo., and Coconino County, Ariz., north of an east-west line extending through The Gap, Ariz. (13) (b) Between points in Utah, and Idaho

(except points north of the Salmon River), points in Sweetwater, and Uinta Counties, Wyo., and Coconino County, Ariz., and east-west line extending through The Gap, Arizona. The purpose of this filing is (13) (a) and (13) (b) above is to eliminate the gateway at Salt Lake City, Utah and 50 miles thereof. (13) (c) From Great Falls and Black Eagle, Montana, and Vancouver, Wash., to points in Utah, Sweetwater, and Uinta Counties, Wyo., and Coconino County, Ariz., north of an east-west line extending through The Gap, Ariz. The purpose of this filing is to eliminate the gateway at points in Idaho and Utah.

(13) (d) From points in Utah, on the one hand, and, on the other, points in Montana. (13) (e) From Coconino County, Arizona, north of an east-west line extending through The Gap, Arizona, to points in Montana. (13) (f) From Sweetwater and Uinta Counties, Wyo. to points in Montana. The purpose of this filing is (13) (d), (13) (e), and (13) (f), above is to eliminate the gateways at Boise, Idaho, and Salt Lake City, Utah.

(14) *Building materials* when also contractors materials and supplies. (14) (a) Between points in Utah, Wyoming, Colorado, Nebraska, Kansas, Iowa, Missouri, South Dakota, Nevada, and Idaho (except points north of the Salmon River). The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah, and 50 miles thereof, and points in Uinta and Sweetwater Counties, Wyo. (14) (b) From points in Nebraska, Kansas, Missouri, Iowa, South Dakota, Colorado, and Wyoming to points in Montana. The purpose of this filing is to eliminate the gateways at Boise, Idaho, Salt Lake City, Utah, and 50 miles thereof, and points in Uinta and Sweetwater Counties, Wyo. (14) (c) From Great Falls and Black Eagle, Montana, and Vancouver, Wash., on the one hand, and, on the other, points in Wyoming, Colorado, Nebraska, Kansas, Missouri, Iowa, and South Dakota. The purpose of this filing is to eliminate the gateways at Boise, Idaho, and Salt Lake City, Utah, and 50 miles thereof, and points in Teton, Sublette, Lincoln, Uinta, and Sweetwater Counties, Wyo.

(15) *Building materials* when also contractors materials and supplies when also commodities which do not require the use of special equipment when moving in mixed loads and on the same bill of lading with commodities which because of size or weight require the use of special equipment. Between points in Nebraska, Kansas, Iowa, Missouri, South Dakota, Nevada, Idaho, south of, but not including Idaho County, Idaho, Coconino County, Ariz., Wyoming, Colorado, Montana, Washington, Utah, Oregon, and in the part of Arizona north and west of the Colorado River. The purpose of this filing is to eliminate the gateways at points in Wyoming, Colorado, west of U.S. Highway 85, Montana and Utah.

(16) *Explosives*. (16) (a) Between points in Arizona, Idaho, Wyoming, Montana, Nevada, Colorado on the one hand, and, on the other, points in Utah, New

Mexico, Lincoln, Sublette, Teton, and Uinta Counties, Wyoming, Nevada, and Idaho south of the Salmon River. The purpose of this filing is to eliminate the gateways at Salt Lake City and 50 miles thereof, and points in Utah. (16) (b) Between points in Washington on the one hand, and, on the other, points in Arizona, Wyoming, Montana, Nevada, New Mexico, Idaho, and Colorado. The purpose of this filing is to eliminate the gateways at points in Idaho and Utah. (16) (c) From Arizona, Idaho, Wyoming, Montana, Nevada, Colorado, Utah, and New Mexico, on the one hand, and, on the other, Union, Baker, and Malheur Counties, Oregon. The purpose of this filing is to eliminate the gateways at points in Idaho and Utah, and Dupont, Wash.

(17) *Explosives* when also contractors supplies. (17) (a) Between points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Utah, Nevada, Idaho, Montana, Arizona, Washington, and New Mexico. The purpose of this filing is to eliminate the gateways at points in Colorado, Wyoming, Utah, and Idaho.

(17) (b) From Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, to the Wingate Ordnance Depot near Gallup, N. Mex. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(18) *Mining equipment* when also heavy machinery. From Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateways at Boise, Idaho.

(19) *Mining equipment and supplies* when also contractors equipment and supplies. Between points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Utah, Nevada, Coconino County, Ariz., and Idaho (except points north of the Salmon River). The purpose of this filing is to eliminate the gateways at Salt Lake City plus 50 miles and points in, Teton, Lincoln, and Sublette, Sweetwater and Uinta Counties, Wyo., and points in Utah.

(20) *Commodities* which do not require the use of special equipment, when moving in mixed loads and on the same bill of lading with commodities which because of size or weight require the use of special equipment. Between points in Montana, Nevada, Utah, and Wyoming, points in that part of Arizona north and west of the Colorado River, points in that part of Idaho south of, but not including, Idaho County, Idaho, and points in Washington and Oregon. The purpose of this filing is to eliminate the gateway at points in Montana and Utah.

(21) *Such commodities* as require special handling or special equipment by reason of weight or size and explosives when moving as size and weight commodities. From points in Montana, Wyoming, and Colorado, to the Wingate Ordnance Depot near Gallup. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(22) *Cast iron pressure pipe* when also contractors supplies when also size and weight commodities requiring special handling or special equipment. Between points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, South Dakota, Utah, Nevada Idaho, Washington, New Mexico, Oregon, Montana, and Arizona. The purpose of this filing is to eliminate the gateways at points in Wyoming, Colorado, Utah, and Montana.

(23) *Nitro carbonitrate* when also a contractors supply. Between points in Utah, points in Coconino County, Ariz., points in Sweetwater and Uinta Counties, Wyo., on the one hand, and, on the other, points in Nevada, Idaho, Montana, Wyoming, Colorado, New Mexico, Arizona, California, and Oregon. The purpose of this filing is to eliminate the gateways at Bacchus, Utah, and the plant site of Trojan Powder Co., Known as GomeX, located approximately six miles south of Springville, Utah.

No. MC 2253 (Sub 70G), filed January 30, 1975, Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, N.C. Highway 150 East, Cherryville, North Carolina 28021. Applicant's representative: J. S. McCallie, P.O. Box 697, Cherryville, N.C. 28021. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, those injurious or contaminating to other lading and livestock. (I) between points in Warren, Morris, Hunterdon, Somerset, Middlesex, Mercer, Monmouth, Ocean, Burlington, and Camden Counties, N.J., on the one hand, and, on the other, points in Allegheny and Westmoreland Counties, Pa., those in Brooke, Hancock, Marshall and Ohio Counties, W. Va., and points in the State of Ohio. The purpose of this filing is to eliminate the gateway of New York, N.Y. (II) Between all points in Bergen, Hudson, Passaic, Essex, Union, Middlesex, Morris, and Somerset Counties, N.J., points in Monmouth County, N.J., on and north of New Jersey Highway 33, points in New York within the New York, N.Y., Commercial Zone as defined by the Commission, points in Nassau County, N.Y., which are on and west of a line beginning at Glen Cove, N.Y., and extending along New York Highway 107 to junction New York Highway 106 and New York Highway 107, thence along New York Highway 106 to junction New York Highway 106 and the Wantagh State Parkway.

Thence along the Wantagh State Parkway to Short Beach, N.Y., those points in Rockland County, N.Y., on and south of New York Highway 210, and points in Westchester County, N.Y., on and south of a line beginning at the Hudson River and extending along New York Highway 117 to the junction of New York Highway 117 and New York Highway 120, thence along New York Highway 120 to the New York-Connecticut State line, on the

one hand, and, on the other, points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to Kane, thence along Pennsylvania Highway 321 to East Kane, Sergeant and Dahoga, Pa., to Wilcox, Pa., thence along U.S. Highway 219 through Ridgway, Brockway, Du Bois, Grampian, Luthersburg, McGees Mills, Barnesboro, Ebensburg, Johnstown, and Jennerstown to Somerset, Pa., thence along Pennsylvania Highway 31 to junction unnumbered highway, thence along unnumbered highway to Berlin, Pa., thence along U.S. Highway 219 through Garrett, Meyersdale, and Salisbury to the Pennsylvania-Maryland State line excluding points in Allegheny and Westmoreland Counties, Pa. The purpose of this filing is to eliminate the gateway of points in Marshall County, W. Va. (III) Between Philadelphia, Pennsylvania, and points in that part of Delaware County, Pennsylvania, on and east of U.S. Highway 202, on the one hand, and, on the other, all points in the State of Ohio, and those in Brooke, Hancock, Marshall, and Ohio Counties, West Virginia. The purpose of this filing is to eliminate the gateway of points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, New Jersey, which are within 30 miles of Newark, New Jersey.

No. MC 8535 (Sub-No. 48G), filed June 4, 1974. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, Interstate 83 at Route 439, Parkton, Md. 21120. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building and contractors' equipment, materials and supplies, machinery and machine parts, pipeline and plant construction materials and supplies, steel, and heavy and bulky articles generally requiring rigging, special equipment, or specialized handling (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those injurious or contaminating to other lading, or articles requiring special vehicular equipment for the over-the-road movement)*, between points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Virginia, West Virginia, Kentucky, Ohio, and the District of Columbia, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateways of Victoria, Kenbridge, or South Hill, Va.

No. MC 8958 (Sub-No. 28G) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of January 22, 1975, and republished in part as corrected this issue. Applicant: THE YOUNGSTOWN CARTAGE CO., 825 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to

operate as a common carrier, by motor vehicle, over irregular routes, transporting: (14) *Materials, equipment and supplies, and metal, metal products, used in the manufacture and processing of iron and steel articles, from points in Ohio, to the plantsite of Jones & Laughlin Steel Corporation located in Putnam County, Ill. The purpose of this filing is to eliminate the gateways at Niles, Ohio; Indiana Toll Road Interchange No. 12; and points in Lake County, Ind.*

NOTE.—The purpose of this republication is to insert the commodity "metal" in the commodity description. The rest of the notice remains as previously published.

No. MC 11133 (Sub-No. 3G), filed June 3, 1974. Applicant: McCORMACK-PAYTON STORAGE & MOVING COMPANY, a corporation, 8701 Prospect Avenue, Kansas City, Mo. 64132. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Household goods, between Kansas City, Mo., and a thirty-five (35) mile radius thereof and points in Illinois, Indiana, Delaware, Kentucky, Maryland, Massachusetts, Michigan, New York, New Jersey, Pennsylvania, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Summit County, Ohio.*

No. MC 18088 (Sub-No. 57G), filed June 4, 1974. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Textiles and textile products, and machinery, machinery parts, equipment, materials, and supplies used in or in connection with the operation of textile mills and warehouses (except commodities in bulk and commodities the transportation of which because of size or weight require the use of special equipment)*, between points in Georgia, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateways of Pell City, Vincent, Sycamore, and LaFayette, Ala.

No. MC 22675 (Sub-No. 8G), filed June 5, 1974. Applicant: ALLSTATES VAN LINES CORPORATION, 50-18 97th Place, Corona, N.Y. 11368. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods, as defined by the Commission, (1) between points in New York, New Jersey, Connecticut, Delaware, Maryland, Pennsylvania, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Bergen and Hudson Counties, N.J., and the New York, N.Y., Commercial Zone. (2) between points in New York, New Jersey, Connecticut, Delaware, Maryland, Penn-*

sylvania, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Florida, Georgia, Illinois, Indiana, Massachusetts, Missouri, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Oklahoma, Texas, Arkansas, and the District of Columbia. The purpose of this filing is to eliminate the gateways of the New York, N.Y., Commercial Zone and Bergen and Hudson Counties, N.J. (3) between points in Missouri and Oklahoma, on the one hand, and, on the other, points in Oklahoma, Texas, and Arkansas. The purpose of this filing is to eliminate the gateways of Bergen and Hudson Counties, N.J., the New York, N.Y. Commercial Zone, Independence, Kans., and points within 50 miles thereof and Pontotoc County, Okla.

No. MC 60157 (Sub-No. 21G), filed June 3, 1974. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 5327 N. Central Expressway, Suite 310, Dallas, Tex. 75205. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof and earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Texas, and those in Lea and Eddy Counties, N. Mex., on the one hand, and, on the other, points in Arkansas and Illinois. The purpose of this filing is to eliminate the gateways of Seminole and Potawatomi Counties, Okla.*

(2) *machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, and petroleum and their products, and by-products, and machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main pipelines, between points in Kansas, on*

the one hand, and, on the other, points in Colorado, Montana, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 61692 (Sub-No. 19G), filed June 4, 1974, published in the *FEDERAL REGISTER* issue of February 20, 1975, and republished as a gateway elimination application in this issue. Applicant: WARNERS MOTOR EXPRESS, INC., West Country Club Road, Red Lion, Pa. 17356. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y., 10019. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *New furniture*, (1) between points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia; and (2) from points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, to points in Rhode Island, Ohio, Michigan, and the District of Columbia. The purpose of this filing is to eliminate the gateways of York, Philadelphia, Wilkes-Barre, and Red Lion, Pa., Fair Hill, Md., and Wilmington, Del. (B) *Household goods*, as defined by the Commission (1) Between points in Pennsylvania, Maryland, New Jersey, Massachusetts, New York, Connecticut, Delaware, Virginia, West Virginia, Rhode Island, and the District of Columbia, on the one hand, and, on the other, points in North Carolina, Florida, Ohio, Indiana, Illinois, and Michigan. The purpose of this filing is to eliminate the gateways of Philadelphia, Wilkes-Barre, and York, Pa.

No. MC 66900 (Sub-No. 44G), filed June 4, 1974. Applicant: HOUFF TRANSFER INCORPORATED, P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, commodities, which because of their size or weight, require special equipment, those of unusual value and household goods as defined by the Commission), (1) Between Pittsburgh, Pa., points in West Virginia; those in Pennsylvania and Ohio within 30 miles of Wheeling, W. Va.; Lawrence, Scioto and Gallia Counties, Ohio; Boyd and Greenup Counties, Ky.; on the one hand, and, on the other, Washington, D.C., and points in Virginia, in and north and east of Wythe, Bland, and Carroll Counties, Va. The purpose of this filing is to eliminate the gateways at Rockbridge, Augusta, and Rockingham Counties, Va.; points in Virginia within 80 miles of Staunton, Va., points in Virginia within 50 miles of Washington, D.C., including Washington, D.C., points within 30 miles

of Wheeling, W. Va., points in Cabell County, W. Va., points in Woodbury, N.J. (a point in the Philadelphia, Pa., Commercial Zone), points in West Virginia within 30 miles of Wheeling, W. Va., and points in Frederick County, Va. (a point within 50 miles of Staunton, Va.). (2) Between Baltimore, Md., Washington, D.C., Salisbury, Md., and points in Howard, Baltimore, Montgomery, Frederick, Carroll, Prince Georges, Charles, Calvert, and Harford Counties, Md., within 50 miles of Washington, D.C.; on the one hand, and, on the other, points in West Virginia and those in Scioto, Gallia, and Lawrence Counties, Ohio, and Greenup and Boyd Counties, Ky. The purpose of this filing is to eliminate the gateways at Clark County, Va., and Rockingham County, Va., and points in Cabell County (Huntington), W. Va.

(3) Between Philadelphia, Bristol and Lancaster, Pa., and points in New Jersey on and south of New Jersey Highway 70, extending from Camden, N.J., through Marlton, Red Lion and Four Mile, N.J., thence east along New Jersey Highway 72 to Manahawkin, N.J., but not including Camden, on the one hand, and, on the other, points in Virginia and West Virginia, those in Ohio and Pennsylvania within 30 miles of Wheeling, W. Va., Scioto, Gallia, and Lawrence Counties, Ohio, and Boyd and Greenup Counties, Ky. The purpose of this filing is to eliminate the gateways at points within 50 miles of Staunton, Va., and Augusta County, Va. (4) From York, Pa., and points and places in Pennsylvania located on and east of Interstate Highway 83 (formerly U.S. Highway 111) and on and south of U.S. Highway 422, including points and places on the highways specified (except Lancaster, Bristol and Philadelphia, Pa.) to Washington, D.C. and points in Virginia and West Virginia and points in Ohio within 30 miles of Wheeling, W. Va., Lawrence, Gallia, and Scioto Counties, Ohio, and Boyd and Greenup Counties, Ky. The purpose of this filing is to eliminate the gateways at a point within 50 miles of Staunton, Va., and a point both within 50 miles of Washington, D.C., and 80 miles of Staunton, Va., points in Augusta County, Va. (a point within 50 miles of Staunton, Va.), points in Rockingham County, Va., points in Frederick County, Va., a point in West Virginia within 30 miles of Wheeling, W. Va., and Cabell County, W. Va.

(5) Between Hagerstown, Md., on the one hand, and, on the other, points in Virginia in, north and east of Wythe, Bland and Carroll Counties, Va., and on, south and west of U.S. Highway 17. The purpose of this filing is to eliminate the gateways at Rockingham County, Va., and a point both within 80 miles of Staunton and 50 miles of Washington, D.C., and points in Rockingham, Augusta, and Rockbridge Counties, Va. (6) *Such merchandise as is dealt in by wholesale and retail hardware stores*, from points in New Jersey located on and south of New Jersey Highway 70 extending from Camden, N.J., through Marlton, Red Lion, and Four Mile, N.J., thence east

along New Jersey Highway 72 to Manahawkin, N.J., but not including Camden, to points in Virginia. The purpose of this filing is to eliminate the gateways at Woodbury, N.J. (a point in the Philadelphia, Pa., Commercial Zone).

No. MC 83217 (Sub-No. 64G), filed June 4, 1974. Applicant: DAKOTA EXPRESS, INC., 1614 N. Cliff Avenue, P.O. Box 1252, Sioux Falls, S. Dak. 57101. Applicant's representative: Robert E. Fahey (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (1) between Sioux Falls, S. Dak., and points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Lincoln County, Minn., and points within 15 miles of Flandreau, S. Dak. (2) from points in Minnesota, to points in North Dakota and South Dakota and points in Osceola, O'Brien, Cherokee, Woodbury, Sioux, Lyon, Monona, and Plymouth Counties, Iowa, and points in Burt, Cumming, Stanton, Madison, Boone, Box, Butte, Sioux, Dawes, Cherry, Brown, Rock, Keya Paha, Holt, Knox, Cedar, Dixon, Antelope, Pierce, Wayne, and Thurston Counties, Nebr. The purpose of this filing is to eliminate the gateways of Lincoln County, Minn., and Sioux Falls, S. Dak.

No. MC 95490 (Sub-No. 35G), filed June 4, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages, soda water, carbonic gas, and containers therefor*, from points in Middlesex, Suffolk, and Essex Counties, Mass., on the one hand, and, on the other, points in Windsor, Tolland, and New London Counties, Conn. The purpose of this filing is to eliminate the gateway at Springfield, Mass.

(2) *Malt beverages*, from Providence, Rhode Island, to points in New York City, and Albany, Dutchess, Greene, Nassau, Orange, Putnam, Rensselaer, Rockland, Suffolk, Sullivan, Ulster, Wayne, and Westchester Counties, New York, and *malt beverage containers on return*. The purpose of this filing is to eliminate the gateway at Worcester, Middlesex County, and Springfield, Mass.

(3) *Malt beverages and empty malt beverage containers*, from points in Middlesex, Essex, and Suffolk Counties, Mass., to points in Pennsylvania (except Adams, Allegheny, Beaver, Bedford, Cambria, Fayette, Greene, Lawrence, Somerset, Washington, Westmoreland, and York Counties, Penn.). The purpose of this filing is to eliminate the gateway at Springfield, Mass., and Cranston, Rhode Island.

(4) *Malt beverages and empty malt beverage containers*, from Middlesex, Essex, and Suffolk Counties, Mass., to points in Maryland (except Anne Arundel and Prince Georges Counties south of U.S. Highway 50, Calvert, Charles, and Saint Marys Counties). The purpose of this

filing is to eliminate the gateways at Springfield, Mass. and Cranston, R.I.

(5) *Malt beverages and empty malt beverage containers*, from Baltimore, Md., to points in Berkshire, Franklin, Hampden, Hampshire Counties, Mass. The purpose of this filing is to eliminate the gateway at Natick, Mass.

(6) *Malt beverages and empty malt beverage containers*, between points in New Hampshire, on the one hand, and, on the other, points in Rensselaer, Albany, Schenectady, Montgomery, Herkimer, Saint Lawrence, Franklin, Clinton, Essex, Hamilton, Warren, Saratoga, Fulton and Washington Counties, N.Y. The purpose of this filing is to eliminate the gateways at Lowell and Willimansett, Mass.

(7) *Malt beverages in containers*, from Baltimore, Md., to points in Vermont, (except Windham County). The purpose of this filing is to eliminate the gateway at Natick, Mass.

(8) *Malt beverages in containers*, from Middlesex, Essex, and Suffolk Counties, Mass., to points in Delaware. The purpose of this filing is to eliminate the gateways at Springfield, Mass., and Cranston, R.I.

(9) *Malt beverages in containers*, from Baltimore, Md., to points in Rhode Island. The purpose of this filing is to eliminate the gateways at Natick, Mass., and Springfield, Mass.

No. MC 103490 (Sub-No. 68G), filed May 31, 1974. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, N.Y. 12550. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Liquid petroleum products*, other than bituminous asphalt products, in bulk, in tank vehicles, (a) from Albany County, N.Y., to points in Connecticut and Massachusetts and (b) from Marcus Hook, Pa., Paulsboro, N.J., and points in New Jersey within two miles thereof and Pettys Island, N.J., Hudson, Essex, Middlesex, Union, Passaic and Bergen Counties, N.J., to points in Connecticut and Massachusetts. The purpose of this filing is to eliminate the gateway of Dutchess County, N.Y.

(2) *petroleum products* (except petrochemicals), in bulk, in tank vehicles, from points in Hudson, Essex, Middlesex, Union, Passaic, and Bergen Counties, N.J., to points in Bradford, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Tioga and Wyoming Counties, Pa. The purpose of this filing is to eliminate the gateways of New Windsor, N.Y. and Vestal, N.Y.

No. MC 105457 (Sub-No. 77G), filed June 5, 1974. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, N.C. 28201. Applicant's representative: John V. Luckadoff, P.O. Box 10638, Charlotte, N.C. 28201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value,

classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Nashville, Murfreesboro, Cookeville, and Columbia, Tenn., on the one hand, and, on the other, points in Georgia and Russell County, Ala. The purpose of this filing is to eliminate the gateways of points in South Carolina and Columbus, Ga.

No. MC 107012 (Sub-No. 203G) (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 30, 1974, and republished, as corrected, in part, this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). (16) from points in Minnesota, to points in Arizona, Arkansas, California, Colorado, Iowa, Kansas, New Mexico, and Oregon. The purpose of this filing is to eliminate the gateways of Burlington, Iowa and Kansas City, Mo.

(17) from points in Mississippi, to points in Arizona, California, Kansas, New Hampshire, New Mexico, Oklahoma, Texas and Virginia. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(18) from points in Montana, to points in Arkansas, Iowa and Oklahoma. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo. and Greene County, Ark.

(19) from points in Nebraska, to points in Iowa and Kansas. The purpose of this filing is to eliminate the gateways of Burlington, Iowa and Kansas City, Mo.

(20) from points in Nevada, to points in Arkansas, Iowa, Minnesota, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo. and Greene County, Ark.

NOTE.—The purpose of this partial republication is to add (16) through (20) erroneously omitted in the previous publication. The rest of the notice remains as originally published.

No. MC 107515 (Sub-No. 951G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30059. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, as described in the Appendix to the Report in Modification of Permits—*Packaging Products*, 48 M.C.C. 628, from points in Louisiana, Mississippi, Alabama, Florida, North Carolina, South Carolina, Tennessee (except Nashville and McMinnville), and from Atlanta, Albany, Macon, Columbus, Griffin, and Montezuma, Georgia, and points in their commercial zones, and from points in Virginia, West Virginia, Ohio, Maryland, Delaware, New Jersey, Pennsylvania, New York, Massachusetts, Connecticut, and Rhode Island. The purpose of this

filing is to eliminate the gateways of points within 10 miles of Atlanta, Ga. (excluding Atlanta), points within 5 miles of Albany, Macon, Columbus, Griffin, and Montezuma, Ga., Gatesville and Rocky Gatesville, N.C.

No. MC 107515 (Sub-No. 972G), filed February 10, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30059. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Frozen foods*, from points in California, to points in Kentucky, Illinois, Indiana, Ohio, Michigan, New York, Pennsylvania, and Tennessee. The purpose of this filing is to eliminate the gateways of Florence, Ala., and Rocky Mount, N.C.

(B) *Frozen foods*, from Mishawake, Indiana, to points in California. The purpose of this filing is to eliminate the gateways of Detroit, Mich., and Columbus, Ohio.

(C) *Meats, fresh and frozen*, from Tupelo, Miss., to points in California and Washington. The purpose of this filing is to eliminate the gateways of points in Georgia and Tenn., Atlanta, Ga., and points in its commercial zone, and Bristol, Tenn.

(D) *Frozen foods*, from points in Ohio, to points in California. The purpose of this filing is to eliminate the gateways of Detroit, Mich. and Columbus, Ohio.

(E) *Meats*, from Goodlettsville, Tenn., to points in California. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., and Bristol, Tenn.

(F) *Meats*, from Chicago, Ill., to Los Angeles, Calif. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

(G) *Meats*, from Chicago, Ill., to points in California, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Bristol, Tenn.

(H) *Frozen foods*, from California, Oregon and Washington, to points in Louisiana. The purpose of this filing is to eliminate the gateways of Mississippi and Florence, Ala.

No. MC 109397 (Sub-No. 299G), filed June 3, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Charles O. Gillogly (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Radioactive materials and radioactive material handling containers*, between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Morris, Ill.

(2) *source, special nuclear and by-product materials*, when requiring special handling, between Dickerson, Md., on the one hand, and, on the other, points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Lucas County, Ohio.

(3) *radioactive materials and radioactive material handling containers* when requiring special handling, from points in the United States (except Alaska and Hawaii), to points in Kentucky. The purpose of this filing is to eliminate the gateways of Lynchburg (Campbell County), Va., Wilmington (New Hanover County), N.C., Morris (Grundy County), Ill., and Quehanna, Pa.

No. MC 111594 (Sub-No. 59G), filed May 31, 1974. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54494. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferric Chloride*, in bulk, in rubber lined tank vehicles, from the plant site and storage facilities of K A Steel Chemicals, Inc., located at Lemont, Ill. to points in Indiana; to points in Michigan on, west, and south of a line beginning at the junction of Interstate Highway 75 and the town of Mackinaw City; thence south on Interstate Highway 75 to junction Michigan Highway 76; thence southeast over Michigan Highway 76 to West Branch; thence east over Michigan Highway 55 to Lake Huron; points in the Upper Peninsula of Michigan on and south of a line beginning at the junction of U.S. Highway 2 and the town of Ironwood; thence east over U.S. Highway 2 to the junction of Michigan Highway 134; thence east over Michigan Highway 134 to Lake Huron; and points in Wisconsin on, south and east of a line beginning at the junction of U.S. Highway 53 and the town of La Crosse; thence north over U.S. Highway 53 to junction U.S. Highway 10; thence east over U.S. Highway 10 to junction Wisconsin Highway 73; thence north over Wisconsin Highway 73 to junction Wisconsin Highway 64; thence east over Wisconsin Highway 64 to Merrill; thence north over U.S. Highway 51 to junction U.S. Highway 8; thence east over U.S. Highway 8 to the Wisconsin-Michigan State line. The purpose of this filing is to eliminate the gateway at Waukegan, Ill.

No. MC 111940 (Sub-No. 60G), filed June 3, 1974. Applicant: SMITH'S TRUCK LINES, P.O. Box 88, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Agricultural commodities*, between points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia and the District of Columbia, on the one hand, and, on the other, points in New York, New Jersey, Maryland, and the District of Columbia and (2) *new and used empty containers* used in the transportation of agricultural commodities, from points in Maryland, New Jersey, New York and the District of Columbia, to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. The purpose of this filing is

to eliminate the gateway of Muncy, Pa. and points within 25 miles of Muncy, Pa.

No. MC 112304 (Sub-No. 81G), filed June 4, 1974. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: R. F. Baum (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight, requires special handling and the use of special equipment, (a) between points in Kentucky on and west of U.S. Highway 127, on the one hand, and, on the other, points in Illinois and Wisconsin, (b) between points in West Virginia, on the one hand, and, on the other, points in New Jersey, New York and Pennsylvania, (c) between points in Michigan on and west of U.S. Interstate Highway 75 beginning at Mackinaw City, to its junction with U.S. Highway 27 thence via U.S. Highway 27 to the Michigan-Indiana State Line, on the one hand, and, on the other, points in Illinois and Wisconsin, and (d) between points in that portion of Pennsylvania on and west of U.S. Highway 219 to its junction with U.S. Highway 119 at or near DuBois thence via U.S. Highway 119 to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, points in Virginia, Maryland and the District of Columbia and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Kentucky, on the one hand, and, on the other, points in Virginia, restricted to the transportation of commodities as described in (1) above. The purpose of this filing is to eliminate the gateways of points in Ohio and/or Clarksburg, W. Va. and/or points within 50 miles of Clarksburg, W. Va.

No. MC 112617 (Sub-No. 318G), filed May 31, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals and petroleum products*, in bulk, in tank vehicles from Louisville, Ky., to points in Champaign, Clark, Clay, Coles, Cook, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Ford, Iroquois, Jasper, Kankakee, Fayette, Lawrence, Moultrie, Piatt, Richland, Shelby, Vermillion, Wabash, Wayne and Will Counties, Ill., Indiana (except points in Perry, Warrick, and Spencer Counties); Michigan (except points in and north of Oceana, Newaygo, Mecosta, Isabella, Gratiot, Saginaw, Genesee, Jasper and St. Clair Counties); Ohio (except points in Ashland County); Greene and Washington Counties, Pa., Tennessee (except points west of Campbell, Union, Knox, Jefferson and Cocke Counties); Bu-

chanan, Dickenson, Lee, Russell, Tazewell and Wise Counties, Va., and West Virginia (except points in Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph and Tucker Counties). The purpose of this filing is to eliminate the gateway of points in Kentucky within five miles of Brandenburg, Ky., excluding Brandenburg and Ekron, Ky.

(2) *liquefied petroleum gas*, in bulk, in tank vehicles, from The Terminal of Warren Petroleum Co. at or near Crossville, Ill., to points in Kentucky west of Todd, Logan, Warren, Barren, Hart, Hardin, Breckinridge and Hancock Counties. The purpose of this filing is to eliminate the gateway of the pipeline terminal site of the Texas Eastern Transmission Corp. at or near Princeton (Gibson County), Ind.

No. MC 112495 (Sub-No. 64G), filed June 4, 1974. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (1) *Heavy road construction machinery and equipment*, which because of size or weight requires the use of special equipment, and (2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy road construction machinery and equipment, and *related supplies* (except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal) moving in connection therewith, from points in Illinois to points in West Virginia.

Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways in Kentucky west of the Tennessee River.

(II) *Road-construction machinery, equipment, and supplies* (except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal), from points in Ohio to points in West Virginia. The purpose of this filing is to eliminate the gateway in Virginia.

(III) *Road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown, and DeKalb and points within 10 miles of each) to points in West Virginia.

Restriction: The authority granted herein shall be restricted against the transportation of commodities which because of size or weight require the use of special equipment. The purpose of this filing is to eliminate the gateway in Virginia.

(IV) *Road construction machinery and equipment* as described in Appendix VIII

to the reports in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which because of size or weight requires the use of special equipment, from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown, and DeKalb, and points within 10 miles of each) to points in West Virginia.

Restriction: The authority granted above is restricted to the transportation of the described commodities when moving in the same vehicle with shipments of such commodities which do not require the use of special equipment. The purpose of this filing is to eliminate the gateway in Virginia on or west of U.S. Highway 220.

(V) (1) *Heavy road construction machinery and equipment*, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and (2) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy road construction machinery and equipment, and *related supplies* (except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal) moving in connection therewith, between points in Tennessee, Kentucky, and those in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in West Virginia.

Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway in Virginia on or west of U.S. Highway 220.

(VI) (1) *Earth-moving, construction, mining, and maintenance machinery and equipment, and parts thereof* when moving with the above commodities, from the plant site of Athey Products Corporation at or near Wake Forest, N.C., to points in Indiana, Illinois, and Arkansas.

Restriction: (1) Restricted to traffic originating at the above-named plant site, and (2) restricted to the transportation of (a) heavy machinery and contractors' equipment which because of their size or weight require the use of special equipment or special handling, or (b) such self-propelled articles, each weighing 15,000 pounds or more, which may be included in heavy machinery and contractors' equipment, further restricted to commodities which are transported on trailers.

The purpose of this filing is to eliminate the gateway in Kentucky west of the Tennessee River.

(2) *Earth-moving, construction, mining, and maintenance machinery and equipment*, from the plant site of Athey Products Corporation at or near Wake Forest, N.C., to points in Tennessee and

that portion of Virginia on and west of U.S. Highway 220.

Restriction: (1) Restricted to traffic originating at the above-named plant site, and (2) restricted to the transportation of (a) heavy machinery and construction equipment, the transportation of which, because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing of equipment), or (b) such self-propelled articles, each weighing 15,000 pounds or more which may be included in heavy machinery and construction equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment) further restricted to commodities which are transported on trailers.

(3) *Heavy road-construction machinery and equipment*, which either requires the use of special equipment because of size or weight, or is self-propelled, each article weighing 15,000 pounds or more, and is transported on trailers (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from the plant site of Athey Products Corporation at or near Wake Forest, N.C., to points in West Virginia.

Restriction: Restricted to traffic originating at the above-named plant site. The purpose of this filing is to eliminate the gateway at any point in Kentucky.

(4) *Heavy mining machinery and equipment*, which either requires the use of special equipment because of size or weight, or is self-propelled, each article weighing 15,000 pounds or more, and is transported on trailers from the plant site of Athey Products Corporation at or near Wake Forest, N.C., to points in Ohio, Pennsylvania, Virginia, and West Virginia.

Restriction: Restricted to traffic originating at the above-named plant site.

The purpose of this filing is to eliminate the gateway in Kentucky west of the Tennessee River.

(VII) (A) (1) *Heavy road construction machinery and equipment*, which because of size or weight requires the use of special equipment (excluding any transportation in connection with the stringing or picking-up of pipeline materials or equipment), and

(2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy road construction machinery and equipment (excluding any transportation in connection with the stringing or picking-up of pipeline materials or equipment), and which are transported on trailers, from points in Ohio to points in Tennessee, Kentucky, and that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway in Virginia on or west of U.S. Highway 220.

(VII) (B) (1) *Heavy road construction machinery and road construction contractors' equipment*, which because of their size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and

(2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy road construction machinery and road construction contractors' equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and which are transported on trailers, from points in Ohio to points in Indiana, Illinois, Missouri, and Arkansas. The purpose of this filing is to eliminate the gateways in that part of Kentucky west of the Tennessee River and at a point in Virginia on or west of U.S. Highway 220.

(VIII) (1) *Structural steel*, from points in Tennessee, Kentucky, that portion of Virginia on and west of U.S. Highway 220, and those in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, and

(2) *structural steel*, which because of size or weight require special equipment or special handling, from points in Indiana, Illinois, Missouri, and Arkansas to points in the states named in (1) above. The purpose of this filing is to eliminate the gateways at Preston, Franklin, Dickson, Chattanooga, Springfield, and Nashville, Tenn.

(IX) *Heavy material handling equipment, winches, compaction and road-making equipment, rollers, and mobile cranes*, which because of size or weight require the use of special equipment, or which are self-propelled, each article weighing 15,000 pounds or more, between the plant sites of Hyster Company, located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Kentucky, Missouri, and Arkansas.

Restriction: The operations authorized herein are restricted to the transportation of shipments originating at or destined to the above-named plant sites. The purpose of this filing is to eliminate the gateway at points in Kentucky west of the Tennessee River.

(X) (1) *Trucks* designed for off-highway use, which are included in road construction machinery and equipment, in initial movements, in truckaway service, from Decatur, Ill., to points in West Virginia, and

(2) *trucks* designed for off-highway use, which are included in heavy machinery and construction and contrac-

tors' equipment, in initial movements, in truckaway service, from Decatur, Ill., to points in Kentucky, Missouri, and Arkansas.

Restriction: (1) Restricted against any transportation in connection with the stringing or picking up of pipeline materials or equipment, and (2) restricted to the transportation of commodities which require the use of special equipment because of size or weight, or which are self-propelled, each weighing 15,000 pounds or more. The purpose of this filing is to eliminate the gateway at points in Kentucky west of the Tennessee River.

(XI) (A) (1) *Structural steel, heavy machinery, and such equipment* as is both construction and contractors' equipment, which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and

(2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy machinery and such equipment as is both construction and contractors' equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), restricted to commodities which are transported on trailers, between points in Tennessee, Kentucky, that portion of Virginia on and west of U.S. Highway 220, and those in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Indiana, Illinois, Missouri, and Arkansas.

(XI) (B) (1) *Heavy road construction machinery and equipment* which because of size or weight requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and

(2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy road construction machinery and equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), restricted to commodities which are transported on trailers, between points in West Virginia, on the one hand, and, on the other, points in Indiana, Illinois, Missouri, and Arkansas. The purpose of this filing is to eliminate the gateway at points in that part of Kentucky west of the Tennessee River and at a point in Virginia on or west of U.S. Highway 220.

(XII) (1) *Heavy mining machinery and equipment*, which because of size or weight require the use of special equipment, and (2) *such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy mining machinery and equipment, restricted to commodities which are transported on trailers, from points in Arkansas, Missouri, Illinois, Indiana, Kentucky, Ten-

nessee, that portion of Virginia on and west of U.S. Highway 220, and those in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, to points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway at a point in Kentucky west of the Tennessee River.

(XIII) *Heavy self-propelled road construction machinery and equipment*, as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, each weighing 15,000 pounds or more, which may be included in heavy machinery and construction equipment, and parts of the above-described commodities moving in connection therewith, from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown, and De Kalb, and points within 10 miles of each) to points in Kentucky.

Restriction: The authority granted herein shall be restricted (1) against the transportation of commodities, which because of size or weight, require the use of special equipment, (2) against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and (3) restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway point in Tennessee.

(XIV) *Heavy road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which because of size or weight requires the use of special equipment, from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown and De Kalb, and points within 10 miles of each), to points in Kentucky.

Restriction: The authority granted above is restricted to the transportation of the described commodities when moving in the same vehicle with shipments of such commodities which do not require the use of special equipment. The purpose of this filing is to eliminate the gateway point in Tennessee.

(XV) (A) (1) *Road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which because of size or weight requires the use of special equipment, and

(2) *Such self-propelled heavy road construction machinery and equipment*, each weighing 15,000 pounds or more, which may be included in heavy machinery and contractors' equipment, the transportation of which because of size or weight requires the use of special equipment, restricted to commodities which are transported on trailers, from points in Illinois (except Peoria, Joliet,

Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown and De Kalb, and points within 10 miles of each) to points in that part of Kentucky west of the Tennessee River.

Restriction: The authority granted above is restricted to the transportation of the described commodities when moving in the same vehicle with shipments of such commodities which do not require the use of special equipment.

(XV) (B) *Such self-propelled heavy road construction machinery and equipment*, each weighing 15,000 pounds or more, which may be included in heavy machinery and contractors' equipment, the transportation of which because of size or weight do not require the use of special equipment, restricted to commodities which are transported on trailers, from points in Ohio to points in that part of Kentucky west of the Tennessee River. The purpose of this filing is to eliminate the gateway point in Tennessee.

(XVI) (1) *Heavy road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which because of size or weight requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), and

(2) *Such self-propelled heavy road construction machinery and equipment*, each weighing 15,000 pounds or more, which may be included in heavy machinery and contractors' equipment, the transportation of which because of size or weight requires the use of special equipment, restricted to commodities which are transported on trailers (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown and De Kalb, and points within 10 miles of each), to points in Indiana, Missouri and Arkansas.

Restriction: The above described authority is restricted to the transportation of the described commodities when moving in the same vehicle with shipments of commodities which do not require the use of special equipment. The purpose of this filing is to eliminate the gateway point in Tennessee and at a point in Kentucky west of the Tennessee River.

(XVII) *Such self-propelled road construction machinery and equipment*, as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, each weighing 15,000 pounds or more, which may be included in heavy construction machinery and equipment, the transportation of which because of size or weight requires the use of special equipment, from points in Illinois (except Peoria, Joliet, Decatur, Aurora, Morton, Mossville, Springfield, Deerfield, Harvey, Beardstown and De Kalb, and points within 10 miles of each) to points in Kentucky.

RESTRICTION: The authority granted above is restricted to the transportation of the described commodities when moving in the same vehicle with shipments of such commodities which do not require the use of special equipment.

The purpose of this gateway is to eliminate the gateway point in Tennessee or at a point in Virginia on or west of U.S. Highway 220 or at a point in North Carolina on or west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line.

(XVIII) *Such self-propelled road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, the transportation of which because of size or weight does not require the use of special equipment, from points in Ohio to points in Kentucky, Indiana, Illinois, Missouri, and Arkansas.

Restriction: (1) The operations authorized above are restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and (2) the operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway at a point in Tennessee and at a point in Kentucky west of the Tennessee River.

(XIX) *Structural steel*, (1) from Peotone, Decatur, and Sterling, Ill. to points in Kentucky, that portion of Virginia on and west of U.S. Highway 220, and that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C. and thence along U.S. Highway 1 to the North Carolina-South Carolina State line, and

(2) from Preston, Franklin, Dickson, Chattanooga, Springfield and Nashville, Tenn. to points in that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C. and thence along U.S. Highway 1 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateways at Preston, Franklin, Dickson, Chattanooga, Springfield and Nashville, Tenn., and a point in Tennessee (except Memphis and points in the Commercial Zone).

(XX) *Such self-propelled heavy construction machinery, and equipment*, each weighing 15,000 pounds or more, which because of size or weight requires the use of special equipment, from points in Illinois to points in Tennessee, Kentucky, and those in North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C. and thence along U.S. Highway 1 to the North Carolina-South Carolina State line.

Restriction: (1) The operations authorized above are restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and (2) the operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway point in Virginia on and west of U.S. Highway 220.

(XXI) (A) *Cast iron pressure pipe, cast iron pressure pipe fittings, and materials and accessories* used in the installation and maintenance of cast iron pressure pipe and cast iron pressure pipe fittings, (1) from Lynchburg, Va. to points in that part of Kentucky west of the Tennessee River, and (2) from Radford, Va. to points in that part of Kentucky west of the Tennessee River.

(XXI) (B) *Cast iron soil pipe, cast iron soil pipe fittings, and materials and accessories* used in the installation and maintenance of cast iron soil pipe and cast iron soil pipe fittings, from Lynchburg, Va. to points in that part of Kentucky west of the Tennessee River. The purpose of this filing is to eliminate the gateway point in Illinois.

(XXII) *Such self-propelled articles*, each weighing 15,000 pounds or more, which may be included in heavy construction machinery and equipment, and related machinery, tools, parts, and supplies moving in connection therewith, from points in Illinois to points in Tennessee, Kentucky, and that part of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C. and thence along U.S. Highway 1 to the North Carolina-South Carolina State line.

Restriction: (1) The operations authorized above are restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, and (2) the operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway at a point in Virginia on or west of U.S. Highway 220.

No. MC 113843 (Sub-No. 208G), filed June 4, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Francis P. Barrett, P.O. Box 238, 60 Adams Street, Milton, Mass. 02187. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from points in Connecticut, Massachusetts, and Rhode Island, (a) to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. (b) to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, Oklahoma, Grand Forks, N. Dakota and Sioux Falls, S. Dakota. The purpose of

this filing is to eliminate the gateway of Dundee, N.Y. (c) to points in Iowa and Wisconsin. The purpose of this filing is to eliminate the gateways of Morton, Brockport or LeRoy, N.Y. (d) to points in Tennessee. The purpose of this filing is to eliminate the gateways of Elmira, N.Y. and Detroit, Mich.

(2) *Frozen fruits, frozen berries, and vegetables*, from points in Connecticut, Massachusetts, and Rhode Island, to Springfield, Ill., Louisville, Ky., Kenosha, Wis., Kansas City and Winita Park, Mo., Williamsburg and Norfolk, Va. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

(3) *Frozen juice, frozen berries*, from points in Connecticut, Massachusetts and Rhode Island, to points in Delaware, Maryland, Kentucky, North Carolina, South Carolina, W. Virginia and Virginia (except those points in Virginia other than Hampton, Norfolk and Richmond, on, east and south of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to Richmond, thence along Virginia Highway 33 to Glens, Va., thence along U.S. Highway 17 to Saluda, Va., thence along Virginia Highway 227 to Harmony Village, Va., thence along Virginia Highway 200 to the Rappahannock River, at or near Lockies, Va.). The purpose of this filing is to eliminate the gateways of Dundee or Penn Yan, N.Y.

(4) *Frozen fruits and berries, frozen fruit and berry concentrates*, from points in Connecticut, Massachusetts, and Rhode Island, to points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Oklahoma, Texas and Wisconsin. The purpose of this filing is to eliminate the gateway of Geneva, Penn Yan, Elmira and/or Dundee, N.Y.

(5) *Frozen fruit juices and fruit concentrates*, from points in Connecticut, Massachusetts, and Rhode Island, to points in Delaware, Maryland, Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateway of Geneva, N.Y.

(6) *Frozen fruit concentrates*, from points in Connecticut, Massachusetts, and Rhode Island, to points in Delaware, Maryland, Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateway of Dundee or Penn Yan, N.Y.

(7) *Frozen fruit juices*, from Connecticut, Massachusetts and Rhode Island, to points in Virginia (other than Hampton, Norfolk and Richmond, on, east and south of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 301 to Richmond, Virginia, thence along Virginia Highway 33 to Glens, Va., thence along U.S. Highway 17 to Saluda, Va., and thence along Virginia Highway 227 to Harmony Village, Va., thence along Virginia Highway 200 to the Rappahannock River at or near Lockies, Va.). The purpose of this filing is to eliminate the gateway of Dundee or Penn Yan, N.Y.

(8) *Fresh, cooked, preserved, salted and smoked meats*, from Boston, Mass., and points within ten miles of Boston,

to points in Cattaraugus, Chautauqua, and Erie Counties, N.Y.; Philadelphia and Middletown, Pa.; Camden, Newark, and Jersey City, N.J. and Baltimore, Md. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(9) *Meats, meat products, and meat byproducts*, as described by the Commission, except liquid commodities, in bulk, in tank vehicles, from Boston, Mass., to Chicago, Ill., Erie and Philadelphia, Pa.; Cleveland, Ohio, Cincinnati, Ohio; Detroit, Mich., Baltimore and Salisbury, Md., Roanoke and Richmond, Va., and the District of Columbia. The purpose of this filing is to eliminate the gateways of Rochester, N.Y., and Detroit, Mich.

(10) *Meats, meat products, and meat byproducts*, as described in Section A of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and except frozen), from Boston, Mass., to points in Illinois, Indiana, Michigan, and Kentucky. The purpose of this filing is to eliminate the gateways of Hamlin (Monroe County) or Williamson (Wayne County) N.Y.

(11) *Canned meats, meat products and meat byproducts*, as described in Section A of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from Boston, Mass., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. The purpose of this filing is to eliminate the gateways of plant-site or storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, N.Y. or Williamson, N.Y.

(12) *Paper bags and materials used in closing paper bags*, from E. Pepperell, Mass., to points in Cattaraugus, Chautauqua and Erie Counties, N.Y.

(13) *Fish and seafood*, from Boston, Gloucester, and Provincetown, Mass., to points in Cattaraugus, Chautauqua, and Erie Counties, N.Y. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(14) *Meats, meat products, and meat by-products* (except liquid commodities, in bulk, in tank vehicles) as described in Section A of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Boston and Worcester, Mass., to Buffalo, N.Y. The purpose of this filing is to eliminate the gateway of Gowanda, N.Y.

(15) *Frozen meats, meat products, and meat by-products*, as described in Section A of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicle), from Boston and Southboro, Mass., to Baltimore, Md., the District of Columbia, Hampton and Richmond, Va.; Huntington, W. Va., Chicago, Ill., New York, N.Y.; Green Bay and Milwaukee, Wis., and points in Indiana, Michigan, New Jersey, Ohio, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

(16) *Frozen meats, meat products and by-products* as described in Section 2 of

Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except liquid commodities, in bulk, in tank vehicles), from Boston, Mass., (a) to Chicago, Ill., Green Bay and Milwaukee, Wis., and points in Indiana, Michigan, New Jersey, Ohio and Pennsylvania. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

(b) To points in Delaware, Kentucky and W. Virginia. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

(c) To points in Kentucky, and W. Virginia. The purpose of this filing is to eliminate the gateway of Brockport (Monroe County), N.Y.

(d) To points in Illinois, Indiana, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio and Pennsylvania. The purpose of this filing is to eliminate the gateway of Elmira (Chemung County), N.Y.

(e) To points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

(f) To points in Colorado, Iowa, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of Brockport (Monroe County), N.Y.

(17) *Frozen fish*, from New Bedford and Tiverton, Mass., to Cincinnati and Dayton, Ohio. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 114457 (Sub-No. 196G), filed June 4, 1974. Applicant: DART TRANSIT COMPANY, 780 N. Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Canned goods*, from points in Wisconsin, to points in Montana, North Dakota, South Dakota, Nebraska, Kansas, Iowa, Illinois, and Missouri. The purpose of this filing is to eliminate the gateway at Chanhassen, Minn.

(2) *Canned goods*, from Omaha, Nebr., to points in North Dakota. The purpose of this filing is to eliminate the gateway at Chanhassen, Minn.

(3) *Canning factory supplies*, from points in Wisconsin, to points in Kansas. The purpose of this filing is to eliminate the gateways at Faribault or Minneapolis, Minn.

(4) *Canning factory supplies*, between Missouri and Wisconsin. The purpose of this filing is to eliminate the gateways at Faribault or Minneapolis, Minn.

No. MC 114604 (Sub-No. 30G), filed February 7, 1975. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Bldg. 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, 3384 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bananas*, from Charleston, S.C., to

Greenville, S.C., and points in its commercial zone. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 115523 (Sub-No. 171G), filed June 4, 1974. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 Beck Street, Salt Lake City, Utah 84116.

Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate and ammonium sulfate*, from Geneva, Utah, to points in Colorado. The purpose of this filing is to eliminate the gateway of Kemmever, Wyo.

No. MC 117313 (Sub-No. 7G) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of January 27, 1975, and republished in part as corrected this issue. Applicant: TRYON TRUCKING, INC., P.O. Box 68, Fairless Hills, Pa. 19030. Applicant's representative: John P. McMahon, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tin plate, sheet metal, tanners' and roofers' supplies*, which because of size or weight require the use of special equipment, between points in Ohio, those in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line near Millerton, Pa., and extending in a southerly direction through Williamsport, Pa., to the Pennsylvania-Maryland State line near West Manheim, Pa., and those in Delaware and the District of Columbia, on the one hand, and, on the other, points in New Jersey, Maryland, New York, and those in Pennsylvania east of a line beginning at the Pennsylvania-New York State line near Millerton, Pa., and extending in a southerly direction through Williamsport, Pa., to the Pennsylvania-Maryland State line near West Manheim, Pa. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

NOTE.—The purpose of this republication is to modify the territorial description to correctly indicate the nature of the between movement requested. The rest of the notice remains as previously published.

No. MC 118959 (Sub-No. 114G) filed June 4, 1974. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street, NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Building materials* (except commodities in bulk), from Chicago, Ill., to points in Indiana, Ohio, West Virginia, Virginia, Mississippi, Missouri, Arkansas, Louisiana, Kansas, Oklahoma, Texas, Colorado, New Mexico, Utah, Arizona, California, and Alabama, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Springfield, Ky.

(2) *building, wall or insulating boards, and materials and supplies used in the*

installation of building, wall or insulating boards (except commodities in bulk), (a) from Pensacola, Fla., to points in Arizona, with no transportation for compensation on return except as otherwise authorized and (b) from the plant site of the Armstrong Cork Company, at or near Macon, Ga., to points in Virginia, New York, Massachusetts, New Jersey, Maryland, and Delaware, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Springfield, Ky.

(3) *iron and steel building materials and supplies* (except commodities in bulk), from the plant sites of Laclede Steel Company and Standard Pipe Protection, Inc., of Alton, Ill., to points in Louisiana and Oklahoma, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Springfield, Ky.

(4) *plastic pipe and cement asbestos pipe* (except those articles which because of size and weight require the use of special equipment), from St. Louis, Mo. (except the plant site of Shepard Engineering Company), to points in Florida, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Social Circle, Ga.

No. MC 124078 (Sub-No. 598G), filed June 3, 1974. Applicant: SCHWERMANN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* (except hydrofluosilic acid, such as naval stores as are chemicals, crude tall oil, sulphate, black liquor skimmings and liquid alum) in bulk, in tank or hopper type vehicles, from Atlanta, Ga., to points in Kentucky in and east of Bracken, Harrison, Scott, Fayette, Jessamine, Garrard, Lincoln, Pulaski, Russell, Cumberland, and Monroe Counties, Ky.; points in North Carolina west of Caswell, Alamance, Chatham, Moore, and Richmond Counties, N.C.; and points in South Carolina west of Chesterfield, Kershaw, Fairfield, Newberry, Saluda, and Edgefield Counties, S.C. The purpose of this filing is to eliminate the gateways at Springfield, Tenn. (Robertson County) and Augusta (Richmond County), Ga.

(2) *Petrochemicals*, liquid, in bulk, in tank vehicles, from Tucker, Ga., to points in North Carolina east of Caswell, Alamance, Chatham, Moore, and Richmond Counties, N.C., and points in Virginia (except points in Lee, Scott, Wise, Russell, Dickenson, Buchanan, Tazewell, Bland, Giles, Pulaski, Montgomery, Roanoke, Botetourt, Craig, Alleghany, Bath, and Highland Counties). The purpose of this filing is to eliminate the gateways at Atlanta, Ga.; Richmond County, Ga. or Robertson County, Tenn. and Chattanooga, Tenn.

(3) *Naval stores*, in bulk, in tank vehicles (1) from Savannah, Ga., to points

in West Virginia, Massachusetts, New York, points in North Carolina east and south of Warren, Vance, Granville, Durham, Chatham, Randolph, Rowan, Cabarrus and Mecklenburg Counties, N.C.; and (2) from Brunswick, Ga., to points in Mississippi south of Monroe, Clay, Webster, Montgomery, Carroll, Leflore, Sunflower and Washington Counties. Restriction: Transportation to points in Mississippi and North Carolina restricted to liquid chemicals. The purpose of this filing is to eliminate the gateways at Moultrie, Ga. and Augusta (Richmond County), Ga.

No. MC 124947 (Sub-No. 32G), filed September 5, 1974. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 417, Stroud, Okla. 74079. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 N.W. 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight requires the use of special equipment and of related articles and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, (a) between points in Illinois, Kentucky, Indiana, Ohio, Missouri, and Arkansas, on the one hand, and, on the other, Beloit and Turtle, Wis. The purpose of this filing is to eliminate the gateways of points in Williamson, Franklin or Saline Counties, Ill. and points in Winnebago County, Ill. (b) between points in Illinois, on the one hand, and, on the other, points in Kentucky, Indiana, Ohio, Missouri, and Arkansas. The purpose of this filing is to eliminate the gateways of points in Williamson, Franklin or Saline Counties, Ill.

(2) *wire and wire products*, fencing materials and accessories, nails, staples, rods, joists, angles, and bars which because of size or weight require the use of special equipment, from points in Arkansas, Missouri, and Illinois, to points in Wisconsin. The purpose of this filing is to eliminate the gateways of points in Williamson, Franklin or Saline Counties, Ill. and the plant site of Keystone Steel and Wire Company located at Barton, Ill.

(3) *pipe*, which because of size or weight require the use of special equipment, from Memphis, Tenn., to points in Illinois and Beloit and Turtle, Wis. The purpose of this filing is to eliminate the gateways of points in Williamson, Franklin or Saline Counties, Ill. and Winnebago County, Ill.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before April 24, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 5649 (Sub-No. E1), filed May 31, 1974. Applicant: KULP & GORDON, P.O. Box 628, Phoenixville, Pa. 19466. Applicant's representative: Sylvan D. Einhorn (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Empty paint containers*, (a) from Trenton, N.J., to Wilmington, Del., (2) from Commack, N.Y., to Deepwater, N.J., (3) from the District of Columbia to Wrightstown, and Asbury Park, N.J., and (4) from Baltimore, Md., to New Brunswick, Burlington, Millville, Morristown, Mt. Holly, Hammonton, Asbury Park, and Atlantic City, N.J., and Norristown, Pottstown, Easton, Bethlehem, Allentown, and Doylestown, Pa.; (B) *Machinery*, used or useful in the manufacture of furniture, metal and wooden furniture, mattresses, springs, padding, paint, and advertising material, pertaining to such commodities, (1) from Baltimore, Md., to Easton, Bethlehem, Allentown, Norristown, and Pottstown, Pa., and Hammonton, Atlantic City, Burlington, Millville, Morristown, Mt. Holly, and New Brunswick, N.J., and (2) from Elizabeth, N.J., to Phoenixville, Pa.; (C) *Cotton, cotton batts and tufts, padding, burlap, sisal, sisal and cotton waste, linters, and advertising material*, pertaining to such commodities, from Baltimore, Md., to Doylestown, Easton, Bethlehem, Allentown, Norristown, and Pottstown, Pa., and Hammonton, Atlantic City, Burlington, Millville, Morristown, Mt. Holly, and New Brunswick, N.J.;

(D) *Iron and steel products*, (1) from Baltimore, Md., to Doylestown, Easton, Bethlehem, Allentown, Norristown, and Pottstown, Pa., and Hammonton, Boonton, Burlington, Millville, Morristown, Mt. Holly, and New Brunswick, N.J., (2) from Asbury Park, N.J., to Allentown and Bethlehem, Pa.; (3) from Annapolis, Md., to Allentown and Bethlehem, Pa., and Asbury Park, Atlantic City, and Boonton, N.J., (4) from Dover, Wilmington, Seaford, and Newark, Del., Salisbury and Sparrows Point, Md., Toms River, Wrightstown, Deepwater, Hammonton, and Millville, N.J., and the District of Columbia to Allentown, Pa., (5) from Atlantic City, N.J., to Bethlehem, Pa., (6) from Bouton, N.J., to Coatesville, Pa., (7) from Burlington, N.J., to Phoenixville, Pa., (8) from Cape May, N.J., to Downingtown, Pa., (9) from Hammonton, N.J., to Lancaster, Pa., (10) from Millville, N.J., to Reading, Pa., (11)

from Dover, Del., to Doylestown, Pa., and Hammonton, N.J., (12) from New York, N.Y., to Lancaster, Pa., and (13) from the District of Columbia to Pottstown, Pa., and Wrightstown and New Brunswick, N.J.; (E) *Structural steel and iron*, (1) from Baltimore, Md., to Catskill, Commack, Cortland, Deposit, Endicott, Geneva, Birmingham, Hornell, Hudsons, Ithaca, Kingston, Narrowsburg, Newburgh, Norwich, Nyack, Owego, Patchogue, Peekskill, Port Jervis, Poughkeepsie, Riverhead, and New York, N.Y., and East Orange, Fort Lee, Boonton, Netcong, Newark, New Brunswick, Patterson, and Somerville, N.J., (2) from Deepwater, N.J., to Deposit, N.Y., (3) from Hammonton, N.J., to Hudson, N.Y., (4) from Atlantic City, N.J., to Binghamton, N.Y., and (5) from Asbury Park, N.J., to Baltimore, Md.; (F) *Iron and steel machinery parts and castings*, from Baltimore, Md., to Somerville and Patterson, N.J.; and (G) *Insulating materials*, from Camden, N.J., to Nyack, N.Y. The purpose of this filing is to eliminate the gateways in A through D: Philadelphia, Pa., in E: Philadelphia, Coatesville and Phoenixville, Pa., in F: Philadelphia and Downingtown, Pa., and in G: Port Kennedy, Pa.

No. MC 18088 (Sub-No. E2) (Correction), filed May 13, 1974, republished in the FEDERAL REGISTER March 10, 1975. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Textiles and textile products, and machinery, machinery parts, equipment, materials, and supplies* used in or in connection with the operation of textile mills and warehouses (except commodities the transportation of which because of size or weight require the use of special equipment for the transportation thereof), restricted to the transportation of shipments originating at or destined to sites of mills or plants for the production of textiles or textile products, or of warehouses operated in connection with such mills or plants, (a) between points in South Carolina (except Oconee County), on the one hand, and, on the other, points in that part of Tennessee in and west of Giles, Maury, Hickman, Dickson, Houston, and Stewart Counties, and (b) between points in Oconee County, S.C., on the one hand, and, on the other, points in that part of Tennessee in and west of Giles, Lewis, Hickman, Dickson, and Montgomery Counties. The purpose of this filing is to eliminate the gateway of the plant site of Vulcan Binder and Cover, division of Ebsco Industries, Inc., at Vincent, Ala. The purpose of this partial correction is to correct the territorial descriptions in (a) above. The remainder of this letter-notice remains as previously published.

No. MC 21170 (Sub-No. E181), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa

52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*; (a) from points in that part of Minnesota west of a line beginning at the Minnesota-South Dakota State line extending along U.S. Highway 75 to junction Minnesota Highway 68, thence along Minnesota Highway 68 to junction U.S. Highway 59 thence along U.S. Highway 59 to the Iowa-Minnesota State line, (1) to points in that part of Illinois on and south of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 24 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 10, thence along Illinois Highway 10 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Indiana State line, (2) to points in that part of Pennsylvania on, south, and east of a line beginning at the Pennsylvania-West Virginia State line extending along U.S. Highway 70 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 869, thence along Pennsylvania Highway 869 to junction Pennsylvania Highway 36.

Thence along Pennsylvania Highway 36 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 171, thence along Pennsylvania Highway 171 to junction Pennsylvania Highway 370, thence along Pennsylvania Highway 370 to the Pennsylvania-New York State line, (3) to points in the District of Columbia, (4) to points in Maryland, (5) to points in Delaware, (6) to points in New Jersey, (7) to points in New York on and east of a line beginning at the Pennsylvania-New York State line extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to the United States-Canada International Boundary line, (8) to points in Connecticut, (9) to points in Rhode Island, (10) to points in Massachusetts, (11) to points in Vermont, (12) to points in New Hampshire, (13) to points in Maine (except points north of Maine Highway 25); (b) from points in that part of Minnesota on and west

of a line beginning at the Minnesota-North Dakota State line extending along U.S. Highway 52 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to junction Minnesota Highway 104, thence along Minnesota Highway 104 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 71 thence along U.S. Highway 71 to junction Minnesota Highway 19.

Thence along Minnesota Highway 19 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line, (1) to points in that part of Illinois on and south of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line, (2) to points in that part of Pennsylvania on, south, and east of a line beginning at the Pennsylvania-West Virginia State line extending along U.S. Highway 70 to junction Pennsylvania Highway 711, thence along Pennsylvania Highway 711 to junction Pennsylvania Highway 271, thence along Pennsylvania Highway 271 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 81, thence along U.S. Highway 81 to the New York-Pennsylvania State line, (3) to points in the District of Columbia, (4) to points in Maryland, (5) to points in Delaware, (6) to points in New Jersey, (7) to points in that part of New York on and east of a line beginning at the New York-Pennsylvania State line extending along U.S. Highway 81 to the United States-Canada International Boundary line, (8) to points in Connecticut, (9) to points in Rhode Island, (10) to points in Massachusetts, (11) to points in Vermont, (12) to points in New Hampshire, and (13) to points in Maine (except points north of Maine Highway 25); (c) from points in that part of Minnesota on or bounded by a line beginning at the Minnesota-Iowa State line extending along U.S. Highway 169 to junction U.S. Highway 14.

Thence along U.S. Highway 14 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S.

Highway 52, thence along U.S. Highway 52 to junction Minnesota Highway 28, thence along Minnesota Highway 28 to junction Minnesota Highway 104, thence along Minnesota Highway 104 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 19, thence along Minnesota Highway 19 to junction Minnesota Highway 4, thence along Minnesota Highway 4 to junction Minnesota Highway 30, thence along Minnesota Highway 30 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line, (1) to points in that part of Illinois south of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 24 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 133, thence along Illinois Highway 133 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line, (2) to points in that part of Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 434 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 507, thence along Pennsylvania Highway 507 to junction U.S. Highway 81E.

Thence along U.S. Highway 81E to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Pennsylvania-Maryland State line, (3) to points in the District of Columbia, (4) to points in Maryland, (5) to points in Delaware, (6) to points in New Jersey, (7) to points in that part of New York on and east of a line beginning at the United States-Canada International Boundary line extending along New York Highway 56 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 55, thence along New York Highway 55 to the New York-Pennsylvania State line, (8) to points in Connecticut, (9) to points in Rhode Island, (10) to points in Massachusetts, (11) to points in Vermont, (12) to points in New Hampshire, and (13) to points in Maine (except points north of Maine Highway 25); (d) from points in that part of Minnesota on or bounded by a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 65 to junction Minnesota Highway 18, thence along Minnesota Highway 18 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to junction Minnesota Highway 28, thence along Min-

nesota Highway 28 to junction U.S. Highway 52.

Thence along U.S. Highway 52 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to point of origin, (1) to point in that part of Illinois on and south of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State line, (2) to points in that part of Pennsylvania on and south of a line beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 15 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Pennsylvania-New Jersey State line, (3) to points in the District of Columbia, (4) to points in that part of Maryland on and east of a line beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 15 to the Maryland-Virginia State line, (5) to points in Delaware, (6) to points in that part of New Jersey on, south, and east of a line beginning at the New York-New Jersey State line extending along the Garden State Parkway to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Pennsylvania-New Jersey State line, (7) to points in that part of New York on and east of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 9 to junction New York Highway 22, thence along New York Highway 22 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction New York Highway 45, thence along New York Highway 45 to the New York-New Jersey State line, (8) to points in Connecticut, (9) to points in Rhode Island, (10) to points in Massachusetts, (11) to points in Vermont, (12) to points in New Hampshire, and (13) to points in Maine (except points north of Maine Highway 25). The purpose of this filing is to eliminate the gateways of Carrollton, Macon, Marshall, Moberly, and Milan, Mo.

No. MC 21170 (Sub-No. E182), filed June 29, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushl (same as above). Authority sought to operate as a common carrier,

by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, and hides, restricted to food products, from the facilities of Cornland Dressed Beef Company at or near Lexington, Nebraska, (A) to points in that part of Illinois south and east of a line beginning at the Illinois-Missouri State line extending along Illinois Highway 104 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction Illinois Highway 100, thence along Illinois Highway 100 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 116, thence along Illinois Highway 116 to junction Illinois Highway 115, thence along Illinois Highway 115 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction unnumbered highway, thence along unnumbered highway to the Illinois-Indiana State line, (B) to points in that part of Indiana south and east of a line beginning at the Indiana-Illinois State line extending along Indiana Highway 14 to junction Indiana Highway 55, thence along Indiana Highway 55 to junction Indiana Highway 10.

Thence along Indiana Highway 10 to junction Indiana Highway 19, thence along Indiana Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Indiana Highway 9, thence along Indiana Highway 9 to junction Indiana Highway 8, thence along Indiana Highway 8 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Indiana Highway 427, thence along Indiana Highway 427 to junction Indiana Highway 1, thence along Indiana Highway 1 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Indiana-Ohio State line, (C) to points in that part of Ohio south and east of a line beginning at the Ohio-Indiana State line extending along U.S. Highway 20 to junction Ohio Highway 49, thence along Ohio Highway 49 to the Ohio-Michigan State line, (D) to points in that part of Michigan north and east of a line beginning at the Michigan-Ohio State line extending along Michigan Highway 99 to junction Michigan Highway 34, thence along Michigan Highway 34 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Michigan Highway 50, thence along Michigan Highway 50

to junction Michigan Highway 91, thence along Michigan Highway 91 to junction Michigan Highway 46, thence along Michigan Highway 46 to junction Michigan Highway 82, along Michigan Highway 120 to Lake Michigan, (E) to points in Kentucky, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, District of Columbia, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

No. MC 29886 (Sub-No. E31), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, which because of size or weight require the use of special equipment or special handling, except automobiles, trucks, buses, trailers, cabs, chassis, and cement in bulk, (1) between points in Michigan, on the one hand, and, on the other, those points in Ohio on and east of a line beginning at the Michigan-Ohio State line and extending along Ohio Highway 23 to junction Interstate Highway 475, thence along Interstate Highway 475 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State line (Toledo, Ohio)*; (2) between those points in Michigan on and east of a line beginning at the Ohio-Michigan State line and extending along U.S. Highway 23 to junction Michigan Highway 76, thence along Michigan Highway 76 to junction Michigan Highway 72, thence along Michigan Highway 72 to junction Michigan Highway 37, thence along Michigan Highway 37 to Lake Michigan, and those points in Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 30 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30.

Thence along U.S. Highway 30 to the Ohio-West Virginia State line (Toledo, Ohio)*; (3) between points in Michigan, on the one hand, and, on the other, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine (Toledo, Ohio, and those points in that part of New York on and west of a line beginning at Rochester, N.Y. and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line)*; and (4) between points in Iowa, on the one hand, and, on the other, points in New Jersey

and the District of Columbia (those points in that part of Michigan on, south and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, to junction U.S. Highway 127, thence along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Michigan-Ohio State line (Toledo, Ohio and Centre County, Pa.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 29886 (Sub-No. E32), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *heavy machinery*, the transportation of which, because of size or weight, require the use of special equipment or special handling, except automobiles, trucks, buses, trailers, cabs, chassis, and cement in bulk, between points in Iowa, on the one hand, and, on the other, points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, and Rhode Island (those points in that part of Michigan on, south and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, to junction U.S. Highway 127, thence along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion of U.S. Highway 127) to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Michigan-Ohio State line; (Toledo, Ohio, and those points in that portion of New York on and west of a line beginning at Rochester, N.Y., and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line)*;

(2) *heavy machinery*, which because of size or weight, require the use of special equipment or special handling, (a) between points in Iowa, on the one hand, and, on the other, points in Pennsylvania (those points in that portion of Michigan on, south and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, to junction U.S. Highway 127, thence along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion of U.S. Highway 127) to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 127,

thence along U.S. Highway 127 to the Michigan-Ohio State line, and Toledo, Ohio)*, and (b) between points in Indiana, on the one hand, and, on the other, points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, and Rhode Island (Toledo, Ohio, and New York)*; (3) *heavy machinery*, (a) between points in Indiana, on the one hand, and, on the other, points in New Jersey (Toledo, Ohio, and Centre County, Pa.)*, (b) between points in Indiana, on the one hand, and, on the other, points in Pennsylvania, on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Interstate Highway 80 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction Pennsylvania Turnpike, thence along Pennsylvania Turnpike to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to the Pennsylvania-New Jersey State line (Toledo, Ohio)*, and (c) between points in Indiana, on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 26 to junction Interstate Highway 69, thence along Interstate Highway 69 to junction Indiana Highway 14, thence along Indiana Highway 14 to the Ohio-Indiana State line, on the one hand, and, on the other, points in Pennsylvania (Toledo, Ohio)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 30280 (Sub-No. E96), filed January 22, 1975. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Georgia 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between (a) points in Lunenburg, Mecklenburg, Halifax, Charlotte, Prince Edward, and Nottoway Counties, Va., on the one hand, and, on the other, points in Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg Counties, S.C., (b) points in that part of York County, S.C., on and west of South Carolina Highway 49, (c) points in that part of Chester County, S.C., on and north of South Carolina Highway 9, and (d) points in that part of Union County, S.C., on and north of South Carolina Highway 9. The purpose of this filing is to eliminate the gateways of (1) Burlington, N.C., and (2) Charlotte, N.C.

No. MC 51146 (Sub-No. E4), filed May 1, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cast concrete products*, from Utica, Ill., to points in the Upper Peninsula of

Michigan, and Minnesota (except points south of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 19 to the junction of U.S. Highway 63, thence along U.S. Highway 63 to the Mississippi River at Red Wing, Minn.) (Oshkosh, Wis.) *; (2) *New furniture*, crated, as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from St. Charles, Ill., to points in Washington, Oregon, California, Nevada, Idaho, Arizona, Montana, Utah (except points in Daggett, Uintah, and Grand Counties, Utah), and Wyoming (except points south of a line beginning at the South Dakota-Wyoming State line and extending along U.S. Highway 16 to junction U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line) (Green Bay, Wis.) *; (3) *New furniture* crated, from St. Charles, Ill., to points in North Dakota (except points south and east of a line beginning at the Minnesota-North Dakota State line and extending along U.S. Highway 2 to junction U.S. Highway 281, thence along U.S. Highway 281 to the North Dakota-South Dakota State line), and South Dakota (except points south and east of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 12, thence along U.S. Highway 12 to the junction of U.S. Highway 83, thence along U.S. Highway 83 to the junction of U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line (Menominee, Mich.) *;

(4) *Paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation at or near Savannah, Ga., to points in Washington, Oregon, Nevada, Idaho, Utah, Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Missouri (except points south of U.S. Highway 24), Kansas (except points south of a line beginning at the Missouri-Kansas State line and extending along Interstate Highway 65 to junction U.S. Highway 56, thence along U.S. Highway 56 to the Kansas-Oklahoma State line), Arizona (except points south of U.S. Highway 66), and California (except points in Imperial County, Calif.), restricted against the transportation of pulpboard, pulpboard products, waste paper and cardboard cartons, and restricted to the transportation of traffic originating at the above-named facilities (Middlesboro, Ky., and Muncie, Ind.) *; (5) *Paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation at or near Savannah, Ga., to points in Minnesota, Iowa, Wisconsin, Michigan, Illinois (except points in the Chicago commercial zone, as defined by the Commission, points in that part of the St. Louis-East St. Louis commercial zone within Illinois and points in Illinois on and south of U.S. Highway 460), Indiana (except points in the Evansville commercial zone as defined by the Com-

mission), Ohio, Kentucky (except points on and east of Interstate Highway 75, and points in Kentucky south of a line beginning at the Missouri-Kentucky State line and extending along Kentucky Highway 80 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Tennessee State line), restricted against the transportation of (a) pulpboard, pulpboard products, and waste paper to points in Illinois, Indiana, Ohio, Kentucky, Minnesota, and points in that part of Michigan on and south of Michigan Highway 21, and (b) cardboard cartons to the points in Minnesota, Wisconsin, Iowa, Illinois, Indiana, Ohio, and Michigan, and restricted to the transportation of traffic originating at the above-named facilities (Middlesboro, Ky.) *;

(6) *Paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation at or near Savannah, Ga., to points in Massachusetts, Connecticut, Rhode Island, New York (except points west of a line beginning at Lake Erie at Dunkirk, N.Y., and extending along New York Highway 60 to junction U.S. Highway 62, thence along U.S. Highway 62 to the New York-Pennsylvania State line), and New Jersey (except points south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 22 to junction Interstate Highway 78, thence along Interstate Highway 78 to the New Jersey-New York State line, restricted to the transportation of traffic originating at the above-named facilities (Cumberland, W. Va., and Paxinos, Pa.) *; (7) *Paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation at or near Savannah, Ga., to points in Pennsylvania, restricted to the transportation of traffic originating at the above-named facilities (Cumberland, W. Va.) *; (8) *Paper and paper products* (except those commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from the facilities of Union Camp Corporation at or near Savannah, Ga., to Chicago, Ill., restricted against the transportation of pulpboard, pulpboard products, waste paper, and cardboard cartons, and restricted to the transportation of traffic originating at the above-named facilities (Middlesboro, Ky., and Chicago Heights, Ill.) *; (9) *Paper and paper products* (except commodities in bulk), from the plant site and storage facilities of Union Camp Corporation in Isle of Wight County, Va., at or near Franklin, Va., to points in Minnesota, Iowa, Michigan, Indiana (except points in the Evansville commercial zone as defined by the Commission), and Ohio (except points east of Interstate Highway 77 commencing at Lake Erie at Cleveland and extending south to the Ohio-West Virginia State line), restricted to the transportation of traffic originating at the above-specified plant site and storage facilities (Lewisburg, W. Va.) *;

(10) *Paper and paper products* (except commodities in bulk), from the plant site and storage facilities of Union Camp Corporation in Isle of Wight County, Va., at or near Franklin, Va., to points in Tennessee (except points east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25E to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line), restricted to the transportation of traffic originating at the above-specified plant site and storage facilities (Middlesboro, Ky.) *; (11) *Paper and paper products* (except commodities in bulk), from the plant site and storage facilities of Union Camp Corporation in Isle of Wight County, Va., at or near Franklin, Va., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma (except points south and east of a line beginning at the Arkansas-Oklahoma State line and extending along Interstate Highway 40 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Oklahoma-Texas State line Texas (except points east of Interstate Highway 35), and points in Crawford, Washington, Benton, Madison, Carroll, Newton, Boone, Searcy, Marion, and Baxter Counties, Ark., restricted to the transportation of traffic originating at the above-specified plant site and storage facilities (Lewisburg, W. Va., and Muncie, Ind.) *; (12) *Paper and paper products* (except commodities in bulk), from the plant site and storage facilities of Union Camp Corporation in Isle of Wight County, Va., at or near Franklin, Va., to points in that part of Ohio east of U.S. Highway 77, and that part of Pennsylvania on and west of U.S. Highway 220, restricted to the transportation of traffic originating at the above-specified plant site and storage facilities (Cumberland, Md.) *;

(13) *Paper and paper products* (except those commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from the plant site and storage facilities of Union Camp Corporation in Isle of Wight County, Va., at or near Franklin, Va., to Chicago, Ill., restricted to the transportation of traffic originating at the above-specified plant site and storage facilities (Chicago Heights, Ill.) *; (14) *Canning and harvesting machinery and equipment, and cannery supplies* utilized by food business houses (except commodities in bulk), between Kent City, Mich., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, North Dakota, Wisconsin (except points south of a line beginning at Lake Michigan and extending along U.S. Highway 10 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to the Wisconsin-Minnesota State line), Minnesota (except points south

and east of a line beginning at the Wisconsin-Minnesota State line and extending along U.S. Highway 14 to the junction of U.S. Highway 218, thence along U.S. Highway 218 to the Minnesota-Iowa State line, South Dakota (except points south of U.S. Highway 16), Wyoming (except points south and east of a line beginning at the Nebraska-Wyoming State line, and extending along U.S. Highway 20 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to the Wyoming-Colorado State line), Colorado (except points east of a line beginning at the Wyoming-Colorado State line and extending along Colorado Highway 789 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line), and New Mexico (except points east of U.S. Highway 285) (Green Bay, Wis.) *;

(15) *Canned goods*, from Antigo, Wis., to points in Alabama and points in Missouri (except points north and west of a line beginning at the Illinois-Missouri State line and extending along U.S. Highway 24 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Missouri Highway 52, thence along Missouri Highway 52 to the Missouri-Kansas State line) (Milford, Ill.) *; (16) *Canned goods*, from Antigo, Wis., to points in Tennessee (Hoopeston, Ill., and Fowler, Ind.) *; (17) *Canned goods*, from Antigo, Wis., to points in Pennsylvania and West Virginia (Hoopeston, Ill.) *; (18) *Canned goods*, from Antigo, Wis., to points in Kentucky, Indiana (except points north of U.S. Highway 24), Ohio (except points north of U.S. Highway 24) (Milford, Ill.) *; (19) *Canned goods*, from Hoopeston and Milford, Ill., to points in the Upper Peninsula of Michigan (Fowler, Ind., and Shawano, Wis.) *; (20) *Canned goods*, from Fowler, Klandike, and Trafalgar, Ind., to points in the Upper Peninsula of Michigan (except points east of a line beginning at Lake Superior at Grand Marais, Mich., and extending along Michigan Highway 77 to junction U.S. Highway 2, thence along U.S. Highway 2 to Gulliver, Mich., thence from Gulliver, Mich., over unnumbered highway to Lake Michigan) (Shawano, Wis.) *; (21) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Newton, Miss., to points in Minnesota, the Upper Peninsula of Michigan, Indiana (except points south of U.S. Highway 6), and Ohio (except points south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 6 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Ohio-Michigan State line) (St. Charles, Ill.) *; (22) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Newton, Miss., to points in North Dakota and the Lower Peninsula of Michigan (except points south of Michigan Highway 32) (St. Charles, Ill., and Menominee, Mich.) *;

(23) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Neosho, Mo., to

points in the Upper Peninsula of Michigan, Indiana (except points south of Indiana Highway 14), and Ohio (except points south of U.S. Highway 30) (St. Charles, Ill.) *; (24) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Neosho, Mo., to points in the Lower Peninsula of Michigan (except points south of Michigan Highway 32) (St. Charles, Ill., and Menominee, Mich.) *; (25) *New upholstered furniture*, in containers, from the facilities of the La-Z-Boy Chair Company in Monroe, Mich., to points in Minnesota and the Upper Peninsula of Michigan (except points east of a line beginning at Lake Superior at Marquette, Mich., and extending along U.S. Highway 41 to junction Michigan Highway 95, thence along Michigan Highway 95 to the Michigan-Wisconsin State line) (St. Charles, Ill.) *; (26) *New upholstered furniture*, in containers, from the facilities of the La-Z-Boy Chair Company in North Dakota, and South Dakota (except points south of U.S. Highway 212), (St. Charles, Ill., and Menominee, Mich.) *; (27) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Redlands, Calif., to points in Indiana, Ohio, and the Upper Peninsula of Michigan (St. Charles, Ill.) *; (28) *New upholstered furniture*, in containers, from the facilities of La-Z-Boy Chair Company in Redlands, Calif., to points in the Lower Peninsula of Michigan, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, and Pennsylvania (except points south and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Interstate Highway 76, thence along Interstate Highway 76 to the Pennsylvania-Maryland State line) (St. Charles, Ill., and Menominee, Mich.) *;

(29) (a) *Paper and paper products* (except commodities in bulk), from the plant site of the West Virginia Pulp and Paper Company located at or near Wickliffe, Ky., to points in Maine, Vermont, and New Hampshire, and (b) *Materials and supplies* used in the manufacture and processing of paper and paper products (except commodities in bulk), from the destination points specified in (a) above to the plant site of West Virginia Pulp and Paper Company located at or near Wickliffe, Ky. (Muncie, Ind.) *; (30) (a) *Paper and paper products* (except commodities in bulk), from the plant site of the West Virginia Pulp and Paper Company located at or near Wickliffe, Ky., to points in Louisiana and Arkansas (except points north and east of a line beginning at the Oklahoma-Arkansas State line and extending along Interstate Highway 40 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line), and (b) *Materials and supplies* used in the manufacture and processing of paper and paper products (except commodities in bulk), from

the destination points specified in (a) above to the plant site of West Virginia Pulp and Paper Company located at or near Wickliffe, Ky. (Neelys Landing, Mo.) *; (31) (a) *Paper and paper products*, from the plant site of the West Virginia Pulp and Paper Company located at or near Wickliffe, Ky., to points in North Dakota, South Dakota, and Nebraska (except points south of U.S. Highway 20), and (b) *Materials and supplies* used in the manufacture and processing of paper and paper products (except commodities in bulk), from the destination points specified in (a) above to the plant site of West Virginia Pulp and Paper Company located at or near Wickliffe, Ky. (Sibley, Iowa) *;

(32) (a) *Paper and paper products*, from the plant site of the West Virginia Pulp and Paper Company located at or near Wickliffe, Ky., to points in Washington, Montana, Idaho (except points south of U.S. Highway 20), Oregon (except points south of U.S. Highway 20), and Wyoming (except points south of U.S. Highway 20), and (b) *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from the destination points specified in (a) above to the plant site of West Virginia Pulp and Paper Company located at or near Wickliffe, Ky. (Wisconsin Rapids, Wis.) *; (33) (a) *Paper and paper products* (except commodities in bulk), from the plant site of the West Virginia Pulp and Paper Company located at or near Wickliffe, Ky., to points in California, Nevada, Arizona, Idaho (except points north and east of a line beginning at the Oregon-Idaho State line and extending along U.S. Highway 20 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Idaho-Utah State line), Oregon (except points on and north of U.S. Highway 20), and Utah (except points north and east of a line beginning at the Idaho-Utah State line and extending along U.S. Highway 91 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Colorado State line), and (b) *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from the destination points specified herein to the plant site of West Virginia Pulp and Paper Company located at or near Wickliffe, Ky. (Neelys Landing, Mo., and Little River County, Ark.) *;

(34) *Paper and paper products* (except commodities in bulk and chemicals), from Luke, Md., to points in North Dakota, South Dakota, Nebraska, Missouri, Arkansas, Mississippi, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Washington, Oregon, California, Nevada, Louisiana, Idaho, Utah, and Arizona (Muncie, Ind.) *; (35) *Paper and paper products* (except commodities in bulk and chemicals), from Luke, Md., to points in Kentucky (except points east of a line beginning at the

Indiana-Kentucky State line and extending along U.S. Highway 421 to the junction of U.S. Highway 127, thence along U.S. Highway 127 to the Kentucky-Tennessee State line, and Tennessee (except points in Tennessee in the Memphis commercial zone, and except points east of U.S. Highway 231) (Madison, Ind.) *;

(36) *Paper and paper products* (except commodities in bulk and chemicals, from Luke, Md., to points in Ohio 9 (except points north and east of a line beginning at the Kentucky-Ohio State line and extending along Interstate Highway 75 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Indiana-Ohio State line), restricted against the transportation of pulpboard, pulpboard products and waste paper (Richmond, Ind.) *;

(37) *Paper and paper products* (except commodities in bulk and chemicals), from Covington, Va., to points in Missouri (Columbus, Ind.) *;

(38) *Paper and paper products* (except commodities in bulk and chemicals), from Covington, Va., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except points east of a line beginning at the Arkansas-Texas State line and extending along U.S. Highway 59 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Gulf of Mexico at Galveston, Tex.), restricted against the transportation of pulpboard, pulpboard products, and waste paper (Muncie, Ind., and Boston, Ind.) *;

(39) *Paper and paper products* (except commodities in bulk and chemicals), from Covington, Va., to Milwaukee, Wis., restricted against the transportation of pulpboard, pulpboard products, and waste paper (Racine, Wis.) *;

(40) *Paper and paper products* (except those commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, those injurious or contaminating to other lading, and chemicals), from Covington, Va., to Chicago, Ill. (Chicago Heights, Ill.) *;

(41) *Paper and paper products* (except commodities in bulk and chemicals), from Covington, Va., to points in Kentucky (except points east of Interstate Highway 65), restricted against the transportation of pulpboard, pulpboard products, and waste paper (Madison, Ind.) *;

(42) *Paper and paper products* (except commodities in bulk and chemicals), from Covington, Va., to points in Indiana (except points south of U.S. Highway 40), and Michigan (except points north and east of a line beginning at the Ohio-Michigan State line and extending along U.S. Highway 127 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Michigan Highway 21, thence along Michigan Highway 21 to Lake Michigan at or near Holland, Mich.), restricted against the transportation of pulpboard, pulpboard products, and waste paper (Boston, Ind.) *;

(43) *Paper and paper products* (except commodities in

bulk and chemicals), from Tyrone, Pa., to points in North Dakota, South Dakota, and Nebraska (Sibley, Iowa) *;

(44) *Paper and paper products* (except commodities in bulk and chemicals), from Tyrone, Pa., to points in Minnesota (Lansing, Iowa) *;

(45) *Paper and paper products* (except those commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Calhoun, Ill., restricted to traffic originating at the facilities of Bowaters Southern Paper Corporation (Chicago Heights, Ill.) *;

(46) *Paper and paper products*, from Calhoun, Tenn., to points in Washington, Oregon, Idaho, Montana, Wyoming (except points south of a line beginning at the Nebraska-Wyoming State line and extending along U.S. Highway 26 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Wyoming-Utah State line), Utah (except points south and east of a line beginning at the Wyoming-Utah State line and extending along U.S. Highway 189 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Nevada State line), Nevada (except points south of U.S. Highway 6), and California (except points south of the southern boundaries of Santa Cruz, Santa Clara, Merced, Mariposa, and Mono Counties, Calif.), restricted to traffic originating at the facilities of Bowaters Southern Paper Corporation (Marshfield, Wis.) *;

(47) *Paper and paper products*, from Calhoun, Tenn., to points in North Dakota, South Dakota, and Nebraska (except points south of U.S. Highway 30), restricted to traffic originating at the facilities of Bowaters Southern Paper Corporation (Sibley, Iowa) *;

(48) *Paper and paper products*, from Green Bay and DePere, Wis., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, West Virginia (except points north of U.S. Highway 22), Pennsylvania (except points west of a line beginning at Lake Erie at Erie, Pa., and extending along Interstate Highway 79 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-West Virginia State line), Iowa (except points east of a line beginning at the Wisconsin-Iowa State line and extending along U.S. Highway 18 to the junction of Iowa Highway 13, thence along Iowa Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Iowa-Illinois State line), Illinois (except points east of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 67 to junction Illinois

Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 127, thence along Illinois Highway 127 to the Illinois-Missouri State line), and the District of Columbia (Port Edwards, Wis.) *;

(49) *Paper and paper products*, from Appleton and Kaukauna, Wis., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Iowa (except points east of U.S. Highway 218), Illinois (except points north and east of a line beginning at the Missouri-Illinois State line and extending along Illinois Highway 140 to junction Illinois Highway 127, thence along Illinois Highway 127 to the Illinois-Missouri State line), and the District of Columbia (Port Edwards, Wis.) *;

(50) *Paper and paper products*, from Menasha and Neenah, Wis., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Iowa (except points east of U.S. Highway 63), Pennsylvania (except points west of a line beginning at Lake Erie at Erie, Pa., and extending along Interstate Highway 79 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-West Virginia State line), West Virginia (except points in Jackson, Mason, Pleasants, Tyler, Wetzel and Wood Counties, W. Va.), and the District of Columbia (Port Edwards, Wis.) *;

(51) *Paper and paper products*, from Milwaukee, Wis., to points in North Dakota, South Dakota, Nebraska (except points east of U.S. Highway 81, Kansas (except points east of U.S. Highway 81), Oklahoma (except points east of Interstate Highway 35), Texas (except points east of U.S. Highway 69), and Minnesota (except points in Fillmore, Houston, and Winona Counties, Minn.) (Port Edwards, Wis.) *;

(52) *Paper and paper products*, from Peshtigo, Wis., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Kentucky (except points north of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 119 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to the Kentucky-Missouri State line), Minnesota (except points east of a line beginning at the Kentucky-Missouri State line), Minnesota (except points east of a line beginning

at the United States-Canada International Boundary line and extending along U.S. Highway 71 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Minnesota-Wisconsin State line), Illinois (except points east of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 67 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 127, thence along Illinois Highway 127 to the Illinois-Missouri State line), and the District of Columbia (Port Edwards, Wis.) *;

(53) *Paper and paper products*, between Port Edwards, Peshtigo, Green Bay, De Pere, Kaukauna, Appleton, Menasha, Neenah, and Milwaukee, Wis., on the one hand, and, on the other, points in Arizona, New Mexico, Colorado, Utah, Nevada, California, Oregon, Washington, Idaho, Montana, and Wyoming, restricted against the transportation of paper and paper products from Los Angeles and San Francisco, Calif., and points in the respective commercial zones, and Los Angeles Harbor, Calif., commercial zone as defined by the Commission (Appleton, Wis.) *; (54) *Paper and paper products*, from South Bend, Ind., to points in Arizona (except points north of U.S. Highway 66) and California (except points north and east of a line beginning at the Arizona-California State line and extending along U.S. Highway 66 to the junction of California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 132, thence along California Highway 132 to junction Interstate Highway 580, thence along Interstate Highway 580 to the Pacific Ocean at San Francisco, Calif.) (Little River County, Ark.) *; (55) *Paper and paper products* (except commodities in bulk), from the plants and storage facilities of Menasha Corporation at or near Neenah and Menasha, Wis., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, Mississippi, Kentucky (except points west of U.S. Highway 431), and the District of Columbia (Muncie, Ind.) *;

(56) *Paper and paper products*, from the plants and storage facilities of Menasha Corp. at or near Neenah and Menasha, Wis., to points in North Dakota (except points north of U.S. Highway 212), Nebraska (except points east of U.S. Highway 75), Kansas (except points east of U.S. Highway 75), Oklahoma (except points east of U.S. Highway 75) and Texas (except points east of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 271 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Gulf of Mexico at Port Arthur, Tex.) (Sibley, Iowa) *; (57) *Paper and paper products* (except commodities in bulk), from the plant and storage facilities of Menasha Corporation at Neenah and Menasha, Wis., to points in Arkansas (except points in the Blytheville commercial zone as de-

fined by the Commission), Louisiana, Mississippi, and that part of Alabama on and north of U.S. Highway 78 (including points in the commercial zones of points in U.S. Highway 78) (Neelys Landing, Mo.) *;

(58) *Veneer*, as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from High Point and Linwood, N.C., to points in Washington, Oregon, Idaho, Montana, Wyoming, Colorado (except points south of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Interstate Highway 80S, thence along Interstate Highway 80S to the Colorado-Nebraska State line), Utah (except points south of a line beginning at the Arizona-Utah State line and extending along U.S. Highway 91 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Colorado State line), Nevada (except points south of a line beginning at the Pacific Ocean at Los Angeles, Calif., and extending along Interstate Highway 10 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line (Green Bay, Wis.) *; and (59) *Veneer*, as is manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from Martinsburg, W. Va., and New Freedom, Pa., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, and Colorado (except points east of a line beginning at the Nebraska-Colorado State line and extending along Interstate Highway 80S, to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line) (Green Bay, Wis.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E28) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER March 6, 1975. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (4) *Liquid acids*, in bulk, in tank vehicles, from the plant site of American Cyanamid Co., at Avondale, La., to points in Wisconsin, Minnesota, those in Iowa on, east, and north of a line beginning at the Iowa-Missouri State line and extending along U.S. Highway 169 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Interstate Highway 29, thence along Interstate Highway 29 to the Iowa-South Dakota State line, and those in North Dakota and South Dakota on and east of U.S. Highway 85 (Marshall, Ill.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial cor-

rection is to include (4) above. The remainder of this letter-notice remains as previously published.

No. MC 66900 (Sub-No. E3), filed May 30, 1974. Applicant: HOUFF TRANSFER INCORPORATED, P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except uncrated household goods, explosives and dangerous articles, bank bills, currency, or money, deeds, drafts, or valuable papers, postage stamps, precious metals or stones or other articles manufactured therefrom, jewelry or other articles of extraordinary value, articles exceeding 20 feet in length or 6 feet in height, or 7 feet in width, except by special arrangements, green hides, slaughter house offal, tanner's fleshings, or any other articles offensive in odor, which are liable to impregnate other freight or cause damage thereto, and livestock and articles requiring refrigeration, (1) between points in that part of Virginia located on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 15 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line on the one hand, and, on the other, points in Hardy, Grant, Mineral, Hampshire, Morgan, Jefferson, and Berkeley Counties, W. Va. (2) between points in that part of Virginia located on and south of a line beginning at the Atlantic Ocean, thence along Interstate Highway 64 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line, except points within 80 miles of Staunton, Va. on the one hand, and, on the other points in that part of West Virginia located north of Hardy County, W. Va. and east of U.S. Highway 220. The purpose of this filing is to eliminate the gateway of points in that part of Virginia located within 50 miles of Washington, D.C.

No. MC 66900 (Sub-No. E6), filed May 24, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale or retail hardware (1) from Philadelphia, Pa. to points in West Virginia located on and north of U.S. Highway 33. The purpose of this filing is to eliminate the gateway of points in Clarke and Frederick Counties, Va.

(2) From Philadelphia, Pa. to points in Ohio and Pennsylvania within 30 miles of Wheeling, W. Va. The purpose of this filing is to eliminate the gateway of points in Clarke and Frederick Counties,

Va., and points in West Virginia within 30 miles of Wheeling, W. Va.

(3) From Philadelphia, Pa. to Washington, D.C. Bethesda, Frederick, and Cumberland, Md. and points in Maryland within 50 miles of Washington, D.C. that are on and west of Maryland Highway 4 and those points that are on and west of Interstate Highway 70-S and Interstate Highway 70. The purpose of this filing is to eliminate the gateway of points in Virginia within 50 miles of Washington, D.C.

No. MC 66900 (Sub-No. E7), filed May 24, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities which because of size or weight require special equipment, between points in Chesterfield County, Va. and points in Virginia located on and east of U.S. Highway 1 on the one hand, and, on the other, points in Botetourt, Craig, Alleghany, Rockbridge, Highland, Rockingham, Page, Shenandoah, and Warren Counties, Va. and those portions of Frederick and Clarke Counties, Va. within 80 miles of Staunton, Va.

Restriction: No service will be performed between points on and west of a line beginning at Petersburg, Va. and extending southward along Interstate Highway 95 and U.S. Highway 301 to the Virginia-North Carolina State line on the one hand, and, on the other, points in Virginia within 80 miles of Staunton,

Va. on and south of a line beginning at the West Virginia-Virginia State line and thence eastward along Interstate Highway 64. The purpose of this filing is to eliminate the gateway of points in Augusta County, Va.

No. MC 78228 (Sub-No. E14) (correction), filed September 12, 1974, published in the FEDERAL REGISTER March 12, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: (3) *Coke*, in dump vehicles, from Harriet, N.Y., to points in Maryland, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa. The purpose of this partial correction is to include (3) above. The remainder of this letter-notice remains as previously published.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-9574 Filed 4-11-75; 8:45 am]

[Notice No. 38]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Jack B. Kelley, Inc., MC-123392 Sub 49	MC-123392 Sub-53	June 13, 1974
Schwerman Trucking Co., MC-24078 Sub 555, 557, 560	MC-124078 Sub-570	June 24, 1974
Midwest Truck Lines, Ltd., Canadian Corp., MC-125338 Sub 12	MC-125338 Sub-10	June 11, 1974
Interstate Distributor Co., MC-125952 Sub 18	MC-125952 Sub-19	Do.
Road Runner Trucking, Inc., MC-125996 Sub 36	MC-125996 Sub-37	June 3, 1974
DBA, Foesch Transfer Line, MC-125997 Sub 4	MC-125997 Sub-5	June 15, 1974
Peninsula Products, Inc., MC-126038 Sub 10	MC-126038 Sub-11	June 7, 1974
Roe-Salt Transport, Inc., MC-126159 Sub 5	MC-126159 Sub-7	June 3, 1974
Universal Transport, Inc., MC-126555 Sub 24	MC-126555 Sub-26	June 7, 1974
Freedman Contract Hauling Corp., MC-127818 Sub 2	MC-127818 Sub-1	June 25, 1974
Cresco Lines, Inc., MC-128543 Sub 8	MC-128543 Sub-9	June 3, 1974
Carroll Truck Lines, Inc., MC-129727 Sub 4	MC-129727 Sub-4	Do.
Robert V. Markt, MC-133534 Sub 7	MC-133534 Sub-8	June 5, 1974
Fikse Brothers, Inc., MC-133708 Sub 7	MC-133708 Sub-6	June 24, 1974
Kuhle Brothers, Inc., MC-134235 Sub 2	MC-134235 Sub-1	June 5, 1974
Farmer Feed & Supply Transportation, Inc., MC-134282 Sub 3, 7	MC-134282 Sub-4	Do.
Jay Lines, Inc., MC-134323 Sub 32	MC-134323 Sub-49	Aug. 9, 1974
Schanno Transportation, Inc., MC-134477 Sub 15	MC-134477 Sub-22	June 23, 1974
Schanno Transportation, Inc., MC-134477 Sub 40	MC-134477 Sub-33	June 3, 1974
B. J. McAdams, Inc., MC-134922 Sub 29	MC-134922 Sub-24	June 17, 1974
B. J. McAdams, Inc., MC-134922 Sub 34	MC-134922 Sub-26	Do.
Unisicker Trucking, Inc., MC-134970 Sub 3	MC-134970 Sub-4	Do.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-9678 Filed 4-11-75; 8:45 am]

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PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service



SOCIAL SERVICE PROGRAM

Individual and Family Services

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 228]

SOCIAL SERVICE PROGRAM FOR INDIVIDUALS AND FAMILIES

Implementation of Title XX of the Social Security Act

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare.

These proposed regulations are for implementation of Title XX of the Social Security Act, enacted by Pub. L. 93-647, effective October 1, 1975. They contain the following provisions:

1. Subpart A contains a brief overview of the services program and contains definitions of terms used throughout this Part.

2. Subpart B contains requirements for the contents and approval of the State plan, and for reports, maintenance of effort and compliance.

3. Subpart C details the contents of the Comprehensive Annual Services Program Plan and the process by which it is made available to the public. The primary purpose of this process is to provide the citizenry of each State comprehensive understanding of the State's services plan so that they, as an informed citizenry, can interact with the State decision-making process. The plan must contain three services (selected by the State) for SSI recipients, and at least one service directed at each of the five goals.

4. Subparts D, E, and F set forth the limitations on Federal financial participation with respect to specified services, rates and conditions for matching, and eligible individuals. Subpart E contains a definition of what family planning services are matchable at 90 percent under the program. It is anticipated that the final definition will be developed consistent with the Department's positions which will be reflected in the final title XIX regulations.

5. Subpart G details the rules governing purchase of services.

6. Subpart H contains the description of who may be trained and the conditions under which grants are made to educational institutions and financial assistance is provided to students.

7. Subpart I lists the administrative expenditures for which FFP is available.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013 on or before May 14, 1975. Comments will be available for public inspection in Room 5326 of the Department's offices at 301 C Street SW., Washington, D.C., on Monday through Friday of each week

from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

(Catalog of Federal Domestic Assistance Program No. 13.754 Public Assistance—Social Services)

Dated: April 4, 1975.

JAMES S. DWIGHT, Jr.,
Administrator, Social and
Rehabilitation Service.

Approved: April 4, 1975.

CASPAR W. WEINBERGER,
Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended by adding a new Part 228 as follows:

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Subpart A—Scope and Definitions

- Sec. 228.0 Scope of program.
- 228.1 Program definitions.
- Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance
- 228.5 State plan requirements.
- 228.6 Appropriate State agency.
- 228.7 State financial participation.
- 228.8 Statewide operation.
- 228.9 Merit system.
- 228.10 Safeguarding information.
- 228.11 Residency requirements.
- 228.12 Standards for institutions or foster homes.
- 228.13 Standards for child day care services.
- 228.14 Fair hearings.
- 228.15 Amendments to State plan.
- 228.16 Submittal of State plan and amendments for approval by the Secretary.
- 228.17 Reports and maintenance of records.
- 228.18 Maintenance of effort.
- 228.19 Non-compliance.

Subpart C—Comprehensive Annual Services Program Plan

- 228.20 General.
- 228.21 Establishment of program year, effective dates.
- 228.22 Services plan.
- 228.23 Program goals and objectives.
- 228.24 Individuals to be served.
- 228.25 Availability of services by geographic area.
- 228.26 Services.
- 228.27 Estimations of individuals to be served and expenditures.
- 228.28 Program resources.
- 228.29 Program coordination and utilization.
- 228.30 Organizational structure.
- 228.31 Needs assessment.
- 228.32 Planning, evaluation and reporting.
- 228.33 Proposed services plan.
- 228.34 Final services plan.
- 228.35 Amendments to final services plan.

Subpart D—Limitations: Services

- 228.39 General.
- 228.40 Medical and remedial care.
- 228.41 Room or board.
- 228.42 Child care standards.
- 228.43 Educational services.
- 228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

- Sec. 228.45 Services provided by foster family homes or foster care institutions.
- 228.46 Emergency shelter.

Subpart E—Limitations: Financial

- 228.50 Services and individuals covered in the services plan.
- 228.51 Matching rates.
- 228.52 Allotments to States.
- 228.53 Public sources of State's share.
- 228.54 Private sources of State's share.
- 228.55 Family Planning Services.
- 228.56 Fifty Percent Rule.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

- 228.60 Persons eligible.
- 228.61 Determination of eligibility.
- 228.62 Fees for services.
- 228.63 Individual client record.
- 228.64 Information and referral services.
- 228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

Subpart G—Purchase of Service

- 228.70 Written contract.
- 228.71 Rates.

Subpart H—Training or Retraining

- 228.80 General.
- 228.81 Who may be trained.
- 228.82 Grants to educational institutions.
- 228.83 Financial assistance to students.
- 228.84 Activities and costs matchable as training expenditures.
- 228.85 Activities and costs not matchable as training expenditures.

Subpart I—General Administrative Provisions

- 228.90 Expenditures for which Federal financial participation is available.
- 228.91 Expenditures for which Federal financial participation is not available.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Scope and Definitions

§ 228.0 Scope of program.

(a) Federal financial participation is available, in accordance with title XX of the Social Security Act and this Part, with respect to expenditures under a State program for the provision of services, to low income individuals and families, directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

2. Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

§ 228.1 Program definitions.

As used in this Part:

Act means the Social Security Act, as amended.

Administrator means the Administrator of the Social and Rehabilitation Service of the U.S. Department of Health, Education, and Welfare.

Fiscal year as used in this Part means the Federal fiscal year unless otherwise specified.

FFP means Federal financial participation.

Geographic area means any identifiable area encompassed within the State so long as every political subdivision of the State, including Indian reservations, is a part of one or more such areas.

Medical or remedial care means medical care or remedial care for a medical condition.

Monthly gross income means the monthly sum of income received from the following sources that are identified by the U.S. Census Bureau in computing median income:

- (1) Money wages or salary;
- (2) Net income from farm self-employment;
- (3) Net income from non-farm self-employment;
- (4) Dividends, interest, rental income or royalties;
- (5) Pensions and annuities;
- (6) Alimony;
- (7) Child support;
- (8) Unemployment compensation;
- (9) Veterans pensions;
- (10) Workmen's Compensation;
- (11) Public Assistance or welfare payments;
- (12) Social Security payments including pensions; and
- (13) Survivor's benefits, permanent disability payments and railroad retirement.

Secretary means the Secretary of the U.S. Department of Health, Education, and Welfare.

Services plan means the State Comprehensive Annual Services Program Plan under section 2004 of the Act.

SSI (Supplemental Security Income benefits) means monthly cash payments made by the Social Security Administration to an aged, blind or disabled individual who meets the requirements for such aid under title XVI of the Act.

State means the 50 States and the District of Columbia.

State agency means the State agency, designated by the chief executive officer of the State or as otherwise provided by the laws of the State, to administer or supervise the administration of the State's program, and except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

State plan means the State plan under section 2003 of the Act.

State supplementary payment means any cash payment made by a State on a regular basis to an individual receiving Supplemental Security Income benefits under title XVI of the Act, or

who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits.

Title XX when used in this Part refers to title XX of the Social Security Act.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

§ 228.5 State plan requirements.

Each State which establishes a services plan under title XX shall operate it pursuant to a State plan, approved as meeting the requirements of §§ 228.6 through 228.16.

§ 228.6 Appropriate State agency.

(a) **Designation of appropriate State agency.** The State plan shall provide for the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of a State agency with authority to administer or supervise the administration of the State's program under title XX.

(1) If on December 1, 1974, a separate agency administered or supervised the service program for the blind under title VI, such agency may continue to do so for title XX. The program year for that agency shall be the same as for the title XX agency.

(b) **Legal authority.** The Attorney General of the State shall submit a certification identifying the State agency and certifying the legal authority under which such agency administers or supervises the administration of the State program including the authority to make rules and regulations governing the administration of the program.

(c) **Authority and responsibility of the agency.** There shall be maintained within the State agency the authority and responsibility for:

- (1) The State plan;
- (2) The services plan;
- (3) The projection of estimated expenditures;
- (4) The accountability for Federal funds;
- (5) The establishing and maintaining of standards for the determination of eligibility;
- (6) The administration or supervision of the administration for the provision of services;
- (7) Operating the program on a State-wide basis;
- (8) Complying with any program reporting requirements;
- (9) Cooperating with the Secretary; and
- (10) Overall supervision, control and oversight of title XX activities.

(d) **Conditions for implementing the requirement of this section.** In carrying out the responsibilities under paragraph (c) of this section, the State agency may enter into agreements with public or private entities to provide support services.

(e) **Administration of title IV-B of the Act.** Under title IV-B of the Act, the State agency shall administer title IV-B of the Social Security Act unless, prior to December 1, 1974, title IV-A and IV-B of the Act were administered by separate agencies.

§ 228.7 State financial participation.

A State plan under title XX shall provide that State funds will be used in meeting the cost of the program.

§ 228.8 Statewide operation.

A State plan shall provide that it shall be in effect in every political subdivision of the State. Every part of every political subdivision shall be part of a geographic area described in the services plan.

§ 228.9 Merit system.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the administration of the State plan and in local agencies administering the State plan in conformity with the standards for a Merit System of Personnel Administration, 45 CFR Part 70. The State plan shall also conform with standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970, modifying or superseding such standards. Under this requirement, laws, rules, regulation, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in 45 CFR Part 70 must be submitted to the Department of Health, Education, and Welfare for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) Neither the Civil Service Commission nor the Secretary will exercise authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods.

(c) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in 45 CFR Part 70.4. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

§ 228.10 Safeguarding information.

The State plan shall contain provisions regarding safeguarding the use and disclosure of information on applicants and recipients in accordance with 45 CFR 205.50.

§ 228.11 Residency requirements.

The State plan shall provide that no requirements as to duration of residence or citizenship will be imposed as a condition of participation in the State's program for the provision of services.

§ 228.12 Standards for institutions or foster homes.

Where a services plan includes services to individuals living in institutions or foster homes, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards which are reasonably in accord with recommended standards of national standard setting organizations concerned with standards for such institutions or homes including standards related to admissions policies, safety, sanitation, and protection of civil rights.

§ 228.13 Standards for child day care services.

Where a services plan provides for child day care services, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards for such services which are reasonably in accord with recommended standards of national standard setting organizations for such services including standards related to admissions policies for facilities providing such services, safety, sanitation and protection of civil rights.

§ 228.14 Fair hearings.

The State plan shall provide for a system of hearings under which applicants or recipients, or an individual acting on behalf of an applicant or recipient, may appeal denial or termination of a service, or failure to act upon a request for service with reasonable promptness. Under this requirement, the procedures and provisions of 45 CFR 205.10 shall apply.

§ 228.15 Amendments to State plan.

The State plan shall provide that it will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any State law, organization, policy, or State agency operation.

§ 228.16 Submittal of State plan and amendments for approval by the Secretary.

Upon adoption by the State of a State plan, or an amendment to a State plan, it shall be certified by a duly authorized officer of the State agency and submitted to the Social and Rehabilitation Service in accordance with 45 CFR Part 201.

§ 228.17 Reports and maintenance of records.

(a) Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative cost; and statistical, fiscal and other records necessary for re-

porting and accountability required by the Secretary; and shall retain such records for such periods as are prescribed by the Secretary.

(b) The State agency shall make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

§ 228.18 Maintenance of effort.

Each State which participates in the program shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions for the provision of services during each services program year with respect to which payment is made under this Part is not less than the aggregate expenditures from such appropriated funds for the provision of those services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, VI, X, XIV, or XVI, or Part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under this Part, for each fiscal year any part of which is included in that services program year, with respect to expenditures, other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under § 228.52 of this Part. Where such sum totals appropriated include privately donated funds that are identifiable and documented, such donated funds must be deducted in arriving at the aggregate expenditures from appropriated funds.

§ 228.19 Noncompliance.

(a) *Withholding of payment.* If the Secretary, after reasonable notice and opportunity for a hearing to the State, in accordance with 45 CFR 213, finds that the plan of the State no longer complies with any of the requirements of § 228.6 through § 228.15, that in the administration of the plan, there is a substantial failure to comply with any of those requirements, or that there is a substantial failure to comply with the requirements of §§ 228.17 or 228.18, he shall, except as provided in paragraph (b) of this section, notify the State that further payments will not be made to the State under this Part until he is satisfied that there will no longer be any such failure to comply.

(b) *Alternate three percent penalty.* The Secretary may suspend implementation of any termination of payments under paragraph (a) of this section and, alternatively, reduce the amount otherwise payable to the State under this Part for expenditures during that period by three percent for each requirement set forth in § 228.6 through § 228.18 with respect to which there was a finding of noncompliance.

Subpart C—Comprehensive Annual Services Program Plan

§ 228.20 General.

For purposes of § 228.50, the State's services planning must meet the requirements of this Subpart.

§ 228.21 Establishment of program year, effective dates.

(a) The State shall establish a service program year which comports with the fiscal year of either the Federal or State government.

(b) The initial program year shall begin October 1, 1975.

(1) States using the Federal fiscal year may have an initial program year of either 12 or 24 months.

(2) States using a State fiscal year which does not coincide with the Federal fiscal year may have an initial program year of less than 12 months or more than 12 but less than 24 months.

§ 228.22 Services plan.

The State agency shall prepare a Comprehensive Annual Services Program Plan (services plan) prior to the beginning of each services program year. The services plan shall provide a comprehensive description for each item required in §§ 228.21 through 228.32. Where the State has no process for any item in §§ 228.29, 228.31 and 228.32, the services plan must so state. The services plan shall also describe the State agency's public review process as set forth in §§ 228.33, 228.34 and 228.35.

§ 228.23 Program goals and objectives.

(a) The services plan shall provide that services offered are directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(b) The objectives to be achieved under the program shall be directed to the goals in paragraph (a) of this section, and shall be stated in the services plan in measurable terms so that an assessment may be made of the extent to which they are achieved.

§ 228.24 Individuals to be served.

(a) The services plan shall:

(1) Specify which of the categories of individuals, in accordance with Subpart F, shall be provided services in the forthcoming program year and describe the

income levels, if any, which the State has established;

(2) Identify categories of individuals described in paragraph (a)(1) of this section to whom a fee will be charged; and include the fee schedules; and

(3) Specify if the State plans to offer any service defined in § 228.64 or § 228.65.

§ 228.25 Availability of services by geographic area.

(a) For the purpose of delivering services described in the services plan, the State agency may divide the State into geographic areas. *Geographic area* means any identifiable area encompassed with the State so long as every political subdivision of the State, including Indian reservations, is a part of one or more such areas. The services plan shall describe the geographic areas.

(b) The services plan shall provide that services described in § 228.26(b)(1) and (2) will be available to eligible individuals in every geographic area.

(c) Notwithstanding the requirement under paragraph (b) of this section, the State may provide different services in different geographical areas, but within a geographic area eligible individuals must be offered the same services.

§ 228.26 Services.

(a) Each service offered under the services plan shall:

(1) Be described as a separately identifiable service. (For this purpose, clusters of services—e.g., child welfare services, protective services, services to the mentally retarded are not acceptable. If the State provides medical or remedial care or room or board as an integral but subordinate part of a service, as described in § 228.40 and § 228.41, the services plan shall identify and describe components of such subordinate parts in relation to the separately identifiable service.);

(2) Be described as to method of delivery—i.e., directly by the State agency, by a public or private provider under contract, or both;

(3) Be described in terms of its relationship to:

(i) One or more of the program goals in § 228.23; and

(ii) One or more of the objectives in § 228.23; and

(4) Be identified with respect to:

(i) Each of the categories of eligible individuals to whom the service is to be provided; and

(ii) Each of the geographic areas described in the services plan in which the service is to be offered to each category of individuals.

(b) The State agency shall include and identify in its services plan:

(1) At least three services for SSI recipients who need such services;

(2) At least one service directed at each of the goals described in § 228.23. A service may be directed at one or more goals.

Family planning services as described in § 228.55 to all AFDC recipients (including minors who can be considered sexually active) who request them should be provided in the services plan if the

State has an AFDC program. Failure to provide these services will reduce the amount of FFP to the State for its AFDC program, in accordance with section 403(f) of the Act.

(c) The State agency may include in its services plan other services of its choice which are consistent with the program goals and objectives described in § 228.23, and with the limitations described in Subparts D and F.

§ 228.27 Estimations of individuals to be served and expenditures.

(a) The services plan shall provide:

(1) An estimate of the number of individuals by category to be offered each service in each geographic area;

(2) An estimate of the expenditures for each service to be provided, each of the categories of individuals to whom the service is to be provided, and each of the geographic areas in which each service is provided to each category;

(3) An estimated expenditure for all services for the forthcoming program year;

(4) A comparison between estimated aggregate non-Federal expenditures for the proposed program year and those of the preceding program year.

§ 228.28 Program resources.

These resources are the funds with which the State intends to finance its program in anticipation of FFP. The services plan shall itemize such funds and identify the sources.

§ 228.29 Program coordination and utilization.

(a) The services plan shall describe how the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) title IV-A, AFDC;

(ii) title IV-B, Child Welfare Services;

(iii) title XVI, SSI; and

(iv) title XIX, Medical Assistance (Medicaid); and

(2) Related human service programs—e.g., for the aging, children, developmentally disabled; alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, housing, medical and public health, employment and manpower.

(b) The description shall include the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population.

§ 228.30 Organizational structure.

The services plan shall describe the organizational structure of the State agency through which the program will be administered including where individuals may apply for services and have their eligibility determined, and how volunteers will be involved in the provision of services.

§ 228.31 Needs assessment.

(a) The services plan shall describe how the needs of all residents of, and all geographic areas in, the State were taken

into account in developing the services plan. The description of the needs assessment process shall include at least the following:

(1) Data sources used (or to be used);

(2) Public and private organizations consulted (or to be consulted) for their assessment of needs; and

(3) The manner in which the results of the needs assessment were utilized in development of the services plan.

§ 228.32 Planning, evaluation and reporting.

(a) The services plan shall describe the planning, evaluation, and reporting activities for implementing the program, including all significant activities, together with their purpose, funding, and staff resources as follows:

(1) *Planning.* The description shall include at least:

(i) The relationship of planning to the State budget process and the legislative cycle;

(ii) Coordination with and input from other State, regional, or local planning organizations;

(iii) How the needs assessment described under § 228.31 was considered in the planning process;

(iv) How services resources in the State were inventoried, gaps identified, and plans made to fill the gaps; and

(v) Procedures used to establish priorities and set objectives for the program.

(2) *Evaluation.* The description shall include at least:

(i) Specific evaluations the State agency is conducting of its service program, or plans to conduct;

(ii) Identify the entities that conduct the evaluation;

(iii) Purpose and scope of each evaluation; and

(iv) Schedules for such evaluations and the procedure by which their results are disseminated.

(3) *Reporting.* Reporting activities described in the services plan are in addition to reports provided to the Social and Rehabilitation Service. The description shall address any formal reports to elected officials and the public, including schedules for such reports.

§ 228.33 Proposed services plan.

(a) At least 90 days before the beginning of the State's program year, the Governor or such other official as the laws of the State provide, shall approve publish and make generally available to the public the State's proposed services plan prepared by the State agency for the provision of services for the forthcoming program year. The primary purpose of this plan is to provide the citizenry of each State comprehensive and meaningful insight into each State's services plan so that they, as an informed citizenry can interact with the State decisionmaking process. In order to achieve this purpose, the State shall meet the following requirements.

(b) A news release shall be issued by the approving official on the proposed services plan prior to its publication as

described in paragraph (c) of this section.

(c) A description of the proposed services plan shall be published as a display advertisement in the newspaper of widest circulation (and in foreign language newspapers, as appropriate) in each geographic area described in the proposed services plan for three consecutive days in daily newspapers; in three consecutive editions if published other than daily. Publication of the proposed services plan shall begin at least 90 days prior to the beginning of the program year. The published description shall contain as a minimum:

(1) A brief description of the State's services program;

(2) Categories of individuals to whom services will be offered and eligibility criteria;

(3) The amount of Federal allotment, and estimated Federal, State and local funds to be utilized for the program for the forthcoming program year;

(4) The period for public comment;

(5) The method and location where the public may comment on the proposed services plan and how a detailed summary may be obtained without charge, upon request;

(6) A toll-free telephone number where the public may request a copy of the detailed summary;

(7) Addresses of local public offices where the detailed summary is available and where copies of the complete proposed services plan are available for public review, and for purchase at a reasonable cost.

(d) The detailed summary of the proposed services plan shall be distributed to the public without charge, upon request, including at least the information required under each item under § 228.23 through § 228.28, and a summary of information required under § 228.29 through § 228.32.

(e) A copy of the complete proposed services plan shall be made available to the public for inspection or for purchase at a reasonable cost at local public offices and shall be retained there throughout the program year.

(f) Written comments shall be accepted from the public for a period of at least 45 days from the initial date of publication at the State agency and/or through scheduled public hearings at which a record of the proceedings is kept and which is available for review.

(g) Comments on the proposed services plan shall be retained for a period of at least three years for inspection by the public and Federal officials.

(h) The proposed services plan shall be transmitted to the Social and Rehabilitation Service for review for acceptability with respect to FFP under this Part.

§ 228.34 Final services plan.

(a) At least 45 days following publication of the proposed services plan and prior to the start of the program year, the Governor or such other official as the laws of the State provide,

shall approve and publish a final services plan prepared by the State agency. In so doing, the State shall meet the following requirements.

(b) A news release shall be issued by the approving official on the final services plan prior to its publication.

(c) A description of the final services plan shall be published as a display advertisement in at least one edition of the newspaper of widest circulation (and in foreign language newspapers, as appropriate) in each geographic area described in the services plan, prior to the beginning of the State's program year. The display advertisement shall include:

(1) The information described in paragraph (c) (1), (2), and (3) of § 228.33;

(2) An explanation of differences between the proposed and final services plan, and the reasons therefor;

(3) A toll-free telephone number where the public may obtain information on the plan and where to apply for services, or the address of the local public offices where application for services will be accepted; and

(4) Address of local public offices where the final services plan and the public comments are available for public review and where copies of the final plan are available for purchase at a reasonable charge.

(d) A copy of the final services plan shall be retained in local public offices throughout the program year for review. The final services plan must include an explanation of differences between the proposed and final services plan and the reasons therefor, including a summary of the public comments.

(e) The final services plan shall be transmitted to the Social and Rehabilitation Service at time of its publication, for review for acceptability with respect to FFP under this Part. A certification shall be submitted with the plan which contains a minimum:

(1) Dates of publication of the proposed services plan, names of newspapers and geographic areas in the services plan covered by them, and a copy of one of the ads;

(2) Description of the manner in which the proposed services plan was made available to the public, including locations and dates of hearings, if any; and

(3) Date of publication of the final services plan, names of newspapers and geographic areas in the services plan covered by them, and a copy of one of the ads.

§ 228.35 Amendments to final services plan.

Any amendment to the final services plan shall be prepared by the State agency and approved, published, and made generally available to the public by the Governor or such other official as the laws of the State provide in a manner similar to the process described in §§ 228.33 and 228.34 except that the public comment period for the proposed amendment shall be for at least 30 days following the date of initial publication.

Subpart D—Limitations—Services

§ 228.39 General.

The services provided to eligible individuals pursuant to the State's services plan shall meet the requirements set forth in the following sections of this Subpart.

§ 228.40 Medical and remedial care.

(a) FFP is available for medical or remedial care, other than family planning services, only when it is an integral but subordinate part of a service described in the services plan.

(b) Medical or remedial care is an integral but subordinate part of a service only when:

(1) The particular service cannot be provided effectively without the essential medical or remedial care component;

(2) Recipients of the service usually receive the medical or remedial care components;

(3) The medical or remedial care does not exceed 25 percent of the total amount for which reimbursement is made for providing the service of which it is a part;

(4) The medical or remedial care is not available to the individual under the State's approved title XIX plan and neither the individual nor the provider is eligible to receive payment under title XVIII; and

(5) The medical or remedial care is explicitly included in the definition of the service which is a part of the services plan.

§ 228.41 Room or board.

(a) FFP is available for room or board, except for emergency shelter under § 228.46, under a services plan only when provided to an individual who is receiving a service of which room or board is an integral but subordinate part and only for a period of six consecutive months.

(b) Room or board is an integral but subordinate part of a service only when:

(1) It is essential to the effective provision of a particular service;

(2) Recipients of the particular service usually receive room or board;

(3) Room (shelter only) or board (food, food preparation and serving only) does not exceed 20 percent of the total amount for which reimbursement is made for providing the service of which it is a part, or where room and board are both included, cost does not exceed 30 percent of the total amount; and

(4) The services plan explicitly identifies room or board in the definition of the service of which it is a part.

(c) Room or board under this Part may not be provided in foster family homes or foster care institutions except for emergency shelter under § 228.46.

§ 228.42 Child care standards.

(a) FFP is available for child care services provided under a services plan only where the following standards are met:

(1) *In-home care.* (i) When home-maker service is utilized for this purpose, it meets standards established by the State which are reasonably in accord with recommended standards of national standard setting organizations concerned with this type of home care for children.

(ii) When other caretakers are utilized for this purpose, such care meets standards established by the State which, as a minimum, cover the caretaker's age, health, capacity and available time to properly care for children; minimum and maximum hours to be allowed per 24 hour day for such care; maximum number of children that may be cared for the home at any one time; and proper feeding and health care of the children.

(2) *Out-of-home care.* (i) Facilities used to provide day care outside a child's own home are licensed by the State or approved as meeting the standards for such licensing.

(ii) Such facilities and care meet the 1968 Federal Interagency Day Care Requirements, except that:

(A) Subdivision III of such requirements with respect to educational services is recommended but not required.

(B) Required staffing standards for children under age 3 in day care centers and group day care homes are: 1 adult for each child under 6 weeks of age; 1 adult to 3 children, ages 6 weeks to 18 months; and 1 adult to 4 children, ages 18 months through 36 months.

(C) A family day care home serving children from infancy to age 6 may care for no more than two children under age 3 (infancy through 36 months), and no more than five children under age 14, including the family day care mother's own children.

(D) Required staffing standards for school age children in day care centers are: 1 adult to 15 children, ages 6-10; and 1 adult to 20 children, ages 10-14.

(b) The requirements in paragraph (a) (2) (i) of this section are in lieu of otherwise applicable requirements under section 522(d) of the Economic Opportunity Act of 1964 with respect to child day care services under title XX.

§ 228.43 Educational services.

FFP is not available for any educational service made available through any State or local educational agency to residents of the State without cost and without regard to their income. To the extent a fee is imposed on any resident, FFP is available only for such fee.

§ 228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

(a) FFP is available for services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons only under the following conditions:

(1) The services provided are separately identifiable in the services plan

(generalized description such as "services to nursing home patients" or "services to increase socialization skills" are unacceptable under this provision).

(2) Such services are provided by other than the facility in which the individual is living. This requirement is not met if the services are provided by:

(i) Staff or contractors who are under the professional direction or direct supervision of the facility; the facility exercises control of the employment, tenure or compensation of such staff or contractors or makes assignments or alters the service regimen provided by them; or

(ii) Staff of like facilities under reciprocal arrangement.

(3) Such services are also provided to individuals who:

(i) Are not living in a hospital, skilled nursing facility, intermediate care facility (including any such hospitals or facilities for mentally retarded), or prison; and

(ii) Are residents of any part of a geographic area that is within the catchment area of such facility.

(4) Such services do not include:

(i) Inherent responsibilities of a facility such as food, clothing, shelter, general supervision and care; or

(ii) Activities that are intrinsic to the purpose of such facility, such as training in self care in a facility for the mentally retarded.

(5) For purposes of this Part, "prison" means any State or local correctional institution or facility for the confinement of individuals charged with or convicted of criminal offenses, except that no community based residential service facility, including half-way houses, irrespective of auspices or the status of individuals who live in it is included in the definition.

§ 228.45 Services provided by foster family homes or foster care institutions.

(a) *Definitions:*

(1) *Basic foster care* includes parenting responsibilities in the case of children, or benign oversight responsibilities in the case of adults.

(2) *Foster family home* is a home licensed or approved by appropriate State or local authority.

(3) *Foster care institution* is a facility which is licensed or approved by the State for providing basic foster care for children or adults.

(b) *Special services provided by foster family home.* FFP is available for services provided by a foster family home to an individual living in that home, only upon documentation, by an appropriately qualified independent professional person who is other than the placement worker or the immediate supervisor of such worker, that:

(1) The individual requires an identified special service because of a health (physical or mental) condition, an emotional or behavioral problem;

(2) The caregivers are capable by virtue of training of providing the needed service; and

(3) The service is in addition to basic foster care.

(c) *Services provided by foster care institution.* A foster care institution may, under a purchase of service contract in accordance with Subpart G, provide, in addition to basic foster care, any service contained in the State's services plan.

§ 228.46 Emergency shelter.

(a) FFP is available for emergency shelter as a part of a protective service to any child, including runaways, only under the following conditions:

(1) The child is in clear and present danger of abuse, neglect or exploitation;

(2) The need for emergency shelter is documented by personnel authorized by State law to place children, and such documentation is included in the individual client record; and

(3) Emergency shelter is provided for not in excess of 30 days in any 12 month period, which may be consecutive or may accumulate over more than one stay.

§ 228.47 Cash payments for a service.

(a) FFP is available for a service provided by making cash available to reimburse an individual only upon presentation of receipts for a service that:

(1) Is specifically identified in the services plan;

(2) Is approved by the agency prior to purchase; and

(3) Is secured by the individual within an authorized period at an authorized cost.

Subpart E—Limitations—Financial

§ 228.50 Services and individuals covered in the services plan.

(a) FFP is available with respect to any expenditures for the provision of any service for any individual only when:

(1) The State's services plan meets the requirements of Subpart C, and

(2) The final services plan in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual.

§ 228.51 Matching rates.

(a) *Seventy-five percent FFP.* FFP is available at the 75 percent rate for service costs and for personnel training and retraining directly related to the provision of services under the services plan.

(b) *Ninety percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 90 percent rate for family planning services provided under the services plan.

§ 228.52 Allotments to States.

(a) The amount of Federal funds payable to the 50 States and the District of Columbia under this Part for any fiscal year with respect to expenditures for services under the services plan (other than expenditures for personnel training or retraining directly related to the provision of services) may not exceed the allotment set forth in this section.

(b) Allotments for fiscal year beginning July 1, 1975. The allotment of each State for the fiscal year beginning July 1,

1975, shall be the allotment of the State for that fiscal year as determined under section 1130 of the Act. In determining, for the purposes of that limitation, the total amount of the payments made to any State with respect to expenditures during that fiscal year, there shall be included the amount of any payments made to the State that are chargeable against the allotment of the State for the fiscal year beginning July 1, 1975, under section 1130.

(c) Allotments for fiscal years beginning after June 30, 1976. (1) The allotment of each State for each fiscal year beginning after June 30, 1976, shall be an amount which bears the same ratio to \$2,500 million as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary prior to the first day of the third month of the preceding fiscal year, on the basis of the population of each State and of all the States as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(d) Certification of allotment need. (1) Each fiscal year, each State shall certify to the Secretary whether the amount of its allotment is greater than the amount needed by the State for such fiscal year and, if so, the amount by which the amount of such allotment is greater than such need.

(2) If any State certifies, in accordance with subparagraph (1), that the amount of its allotment for any fiscal year is in excess of its need for such year, the amount of the limitation of such State for such year shall be adjusted downward by the amount of such excess.

(3) Of the amounts made available pursuant to subparagraph (2), the Secretary shall allot to the jurisdiction of Puerto Rico \$15,000,000, to the jurisdiction of Guam \$500,000, and to the jurisdiction of the Virgin Islands \$500,000, which shall be available to each such jurisdiction in addition to amounts available under Section 1108 of the Act for the purpose of matching the expenditures of such jurisdictions for services pursuant to sections 3(a) (4) and (5), 403(a) (3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5) of the Act, except that if the amounts made available pursuant to subparagraph (2) are less than \$16,000,000, such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(e) For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the cash transactions occur or the date to which allocated in accordance with 45 CFR Part 74 and cost allocation procedures in accordance with 45 CFR 205.150. In the case of local administration, the date of expenditures by the local agency governs. In the case of purchase of services from another public

agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to July 1, 1975, and other factors relevant to the purposes of this section.

§ 228.53 Public sources of State's share.

(a) *Funds available for matching.* Public funds, other than those derived from private resources, used by the State or local agency for its services programs may be considered as the State's share in claiming FFP only where such funds are:

(1) Appropriated directly to the State or local agency; or

(2) Funds of another public agency which are:

(i) Transferred to the State or local agency and are under its administrative control; or

(ii) Certified by the contributing public agency as representing expenditures for services eligible for FFP under this Part.

(b) *Funds not available for matching.* Notwithstanding paragraph (a) of this section, public funds used by the State or local agency for its services programs may not be used as the State's share in claiming FFP where such funds are:

(1) Federal funds not authorized by Federal law to be used to match other Federal funds; or

(2) Used to match other Federal funds.

This paragraph does not preclude FFP for expenditures for the cost of an otherwise federally subsidized service where the cost covers only the contribution made to obtain the Federal subsidy, but only if the Federal subsidy is provided on a diminishing basis over a fixed period and the project level is maintained.

§ 228.54 Private sources of State's share.

(a) *Funds available for matching.* Funds donated from private sources for services may be considered as State funds in claiming FFP only where such funds are:

(1) Transferred to the State or local agency and under its administrative control;

(2) Donated to the State, without restrictions as to use, other than restrictions as to the services with respect to which the funds are to be used imposed by a donor who is not a sponsor or operator of a program to provide those services, or the geographic area in which the services with respect to which the contribution is used are to be provided; and

(3) Not used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

§ 228.55 Family planning services.

(a) For purposes of this Part, family planning services means counseling, educational and medical services (including diagnosis, treatment, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of a physician) to enable individuals of childbearing age (including minors) to limit voluntarily their family size or to space their children.

(b) Where a State authorizes sterilization as a family planning service, it must comply with the provisions of 45 CFR 205.35.

§ 228.56 Fifty Percent Rule.

(a) FFP is available with respect to expenditures for services under this Part only to the extent that one half of the total amount of Federal funds paid under title XX to any State for any fiscal year does not exceed the amount of the aggregate State and Federal expenditures made in behalf of individuals:

(1) Who are receiving aid under the plan of the State approved under part A of title IV or who are eligible to receive such aid; or

(2) Whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of title IV, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid; or

(3) With respect to whom supplementary security income benefits under title XVI or State supplementary payments, are being paid, or who are eligible to have such benefits or payments paid with respect to them; or

(4) Whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments; being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him; or

(5) Who are eligible for medical assistance under the plan of the State approved under title XIX.

(b) In accounting for information and referral services (§ 228.64) and protective services costs (§ 228.65) to meet the requirements of paragraph (a) of this section, States must adhere to the cost allocation requirements of 45 CFR 205.150.

(c) A determination of "who is eligible to receive" aid under title IV-A or benefit or State supplemental payment under title XVI of the Act must be based on a State procedure for gathering sufficient information to permit a reasonable person to make a judgment that the circumstances (social, economic and physical) of such an individual approximate the conditions that could qualify him for such benefits.

Subpart F—Limitations—Individuals Served, Eligibility and Fees

§ 228.60 Persons eligible.

FFP is available only for services to individuals who are determined to be eligible under the following provisions of this section and § 228.61.

(a) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

- (1) Recipients of AFDC; and
- (2) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and
- (3) Recipients of SSI benefits or State supplementary payments.

(b) *Income status.* Individuals other than those described in paragraph (a) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 228.62.

(c) *Median income.* (1) On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four to be used by the States for the purpose of establishing income levels for determining eligibility and establishing fee schedules under the services plan in the following fiscal year. (For purposes of the first program year, the Secretary will promulgate the median income on or before June 1, 1975.)

(2) A State may establish an income level:

- (i) At a lower level than 115 percent of the median income;
- (ii) At different levels for specific services under the services plan; or
- (iii) At different levels for different categories of individuals.

(3) A State shall not establish an income level which is in excess of 115 percent of the median income.

(4) All median income figures used for eligibility and the imposition of fees in accordance with this paragraph shall be adjusted by family size according to the following percentages of the State median income for a family of four:

- (i) One person—36 percent.
- (ii) Two person family—60 percent.
- (iii) Three person family—82 percent.
- (iv) Four person family—100 percent.
- (v) Five person family—116 percent.
- (vi) Six person family—131 percent.
- (vii) For each additional family member above six persons, add 1 percentage point to the percentage for a family of six.

(d) *Services without regard to eligibility.* Notwithstanding paragraphs (a) and (b) of this section, information or referral services under § 228.64 or services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults under § 228.65 may, if provided under the services plan, be provided to all individuals who need them.

(e) *Responsibility of State agency.* FFP is available only for services provided to individuals who are eligible when the

service is delivered. The State agency shall be responsible for the continued eligibility of individuals to whom services are provided for which FFP is claimed.

§ 228.61 Determination of eligibility.

(a) *What constitutes a determination.* A determination of eligibility means a decision, reflected in the individual client record, as defined in § 228.63, based on sufficient information obtained from or on behalf of an individual which would lead a reasonable person to conclude that the criteria set forth in § 228.60 have been met.

(b) *The determination process.* No determination shall be made solely on the basis of the applicant's declaration as to income maintenance status or current family monthly gross income. Applications for services based on income maintenance status shall be supported by documentation or ascertained from the appropriate source of the income maintenance benefit or payment. Applications based on income status shall be supported by documentation of current family monthly gross income based on the items used by the Census Bureau in defining median income. (See § 228.1) Whether the determination of eligibility is made by the State or the provider, the State shall establish procedures to verify the determinations. An adequate sampling procedure may be used.

(c) *When determination shall be made.* Determination of eligibility shall be made prior to delivery of services except in emergency situations. In an emergency situation, documented in the individual client record, eligibility shall be established within five (5) working days of the commencement of services.

(d) *Who makes the determination.* Determinations of eligibility may be made by the State agency, or pursuant to written contract in accordance with Subpart G, by providers. Where the State retains the function of determining eligibility it may request a provider to obtain and transmit to the agency the necessary data upon which to make the determination.

§ 228.62 Fees for services.

(a) *Mandatory fees.* FFP is available for a service provided to an individual whose eligibility is based on income status if his family's monthly gross income is between 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and 115 percent of the median income of a family of four in the State, adjusted as to family size, only if a fee or other charge, based on a fee schedule in accordance with paragraph (c) of this section, is imposed.

(b) *Discretionary fees.* A State may impose a fee or other charge for any service to any individual who is eligible for services based on income maintenance status or is eligible based on income status and whose family's monthly gross income is less than 80 percent of the median income of a family of four in the State, adjusted for family size, or the median income for a family of four in all

States, adjusted for family size, whichever is less, but only if the fee or other charge is based on a fee schedule in accordance with paragraph (c) of this section.

(c) *Criteria for fee schedules.* Any fee schedule:

- (1) May not impose a fee designed to discourage utilization of needed services;
- (2) May be different for different services;
- (3) Shall provide that fees shall be positively related to the individual's ability to pay the fee;
- (4) Shall not allow a fee which exceeds the cost of the service;
- (5) Shall include methods for the collection of any fee or other charge imposed and evidence of a reasonable effort to collect such fee; and, if a fee or other charge for any service for any individual eligible on income maintenance status is imposed, it shall be the same as the fee imposed on an individual whose eligibility is based on income and whose family has the same monthly gross income.

§ 228.63 Individual client record.

FFP is available for a service provided to an individual only if the State agency maintains for that individual an individual client record which contains identifying information about the client, the basis for determining eligibility for the service, the goal to which the service is directed, and other documentation as required by this Part.

§ 228.64 Information and referral services.

For purposes of this Part, *information and referral services* means information about services provided under title XX and related service programs, brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral, and referral to and follow-up with those community resources which provide or make available such services, when provided by an agency that has information and referral as a specific recognized function and that has a staff with identifiable tasks relating to information and referral.

§ 228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

(a) For purposes of this Part, *services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests* means:

(1) With respect to children, only the following services and only when provided with respect to an individual under the age of 18 harmed or threatened with harm by a person responsible for the individual's health or welfare, through non-accidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter:

(a) For purposes of this Part, *services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests* means:

(1) With respect to children, only the following services and only when provided with respect to an individual under the age of 18 harmed or threatened with harm by a person responsible for the individual's health or welfare, through non-accidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter:

- (i) Identification and diagnosis;
- (ii) Receipt of reports and investigation thereof;
- (iii) Determination that the individual is vulnerable or at risk of neglect, abuse, or exploitation;
- (iv) Counseling and therapy, and training courses for parents of the individual;
- (v) Emergency shelter under § 228.46;
- (vi) Legal representation of the individual;
- (vii) Arranging for the provision of services; and
- (2) With respect to adults unable to protect their own interests, only the following services and only when provided with respect to individuals 18 years of age or older unable to protect their own interests, harmed or threatened with harm through action or inaction by another individual or through their own actions due to ignorance, incompetence or poor health; resulting in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter, or clothing, deprivation of entitlements due them, or diminution of their resources:
 - (i) Identifying such adults who need assistance or who have no one willing and able to assist them responsibly;
 - (ii) Providing prompt response and investigation upon request of adults at risk or other persons acting on their behalf;
 - (iii) Diagnosing the individual's situation and service needs;
 - (iv) Providing counseling to such adults, their families, other responsible persons or to surrogates such as representatives payees, on handling the affairs of such adults;
 - (v) Arranging for appropriate alternate living arrangements in the community or in an institution;
 - (vi) Assisting in the location of medical care, legal services, and other resources in the community;
 - (vii) Arranging for guardianship, commitment, or other protective placement as needed; and
 - (viii) Providing advocacy, including legal services, to assure receipt of rights and entitlements due to adults at risk.

Subpart G—Purchase of Service

§ 228.70 Written contract.

(a) FFP is available when services are purchased by the State agency from an agency or organization other than the State agency only when the State agency negotiates a written contract in accordance with requirements under this Part and 45 CFR Part 74 with the agency or organization from which services are purchased. The contract shall:

- (1) Include all terms of the contract in one instrument, be dated, and be executed by authorized representatives of all parties to the contract prior to the date of implementation;
- (2) Have a definite effective and termination date;
- (3) Contain a detailed description of the services to be provided and of the methods to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain criteria in accordance with Subpart F which shall be used by the provider for such determinations;

(5) Provide for a stated number of units of service at a specific dollar rate, or for a specific dollar amount, or for costs to be determined in accordance with acceptable cost allocation methods;

(6) Specify the method and source of payment to the provider;

(7) Include a statement that the provider meets State or Federal standards as specified in this Part;

(8) Specify the locations of facilities to be used in providing services;

(9) Provide for informing individuals of the right to fair hearing in accordance with § 228.14 where the provider determines eligibility;

(10) Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, Executive Order 11246, and for safeguarding information in accordance with § 228.10;

(11) Provide that all subcontracts shall be subject to the requirements of this Part; and that the provider is responsible for the performance of any sub-provider;

(12) Specify requirements for fiscal and program responsibility, billing, records, controls, reports, and monitoring procedures; and

(13) Provide for access to financial and other records pertaining to the program by State and Federal officials.

(b) The provisions to this section do not apply to services provided to service recipients who are reimbursed by the State agency pursuant to § 228.47.

§ 228.71 Rates of payment.

FFP is available for expenditures for services provided under purchase of service contracts only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service, and where services are purchased from other public agencies, are in accord with costs reasonably assignable to such services, and records are available which describe and support the rates of payment and the methods used to establish and maintain such rates.

Subpart H—Training and Retraining

§ 228.80 General.

FFP is available only in accordance with the requirements of this Subpart for personnel training (including retraining) directly related to the provision of services under the program, including both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions. Funds for such training are outside the State's allotment for services and are available at the 75% rate.

§ 228.81 Who may be trained.

FFP is available for training only the following individuals:

- (a) Persons employed by the State agency, who are:

(1) Agency personnel employed in all classes of positions which directly relate to operation of and provision of services under the program;

(2) Volunteers attached to the State agency and supervised by it in relation to their performing duties directly related to the program;

(b) Service delivery personnel of providers when there is a purchase of service contract in accordance with Subpart G in effect, only if such training is directly related to and benefits the provision of services during the contract period;

(c) Individuals, other than those described under paragraph (b) of this section, who provide services to service recipients who are reimbursed by the State agency pursuant to § 228.47, but only if the training is directly related to such services.

§ 228.82 Grants to educational institutions.

(a) Notwithstanding § 228.81, FFP is available for grants to educational institutions but only if such grants are for periods of not more than 3 years, and only if:

(1) Such grants are made for the purpose of developing, expanding, or improving training for agency employees (or providers), but participation in such programs need not be limited to such employees;

(2) They are available only to graduate and undergraduate educational institutions and programs that are accredited by an appropriate accrediting body; and

(3) The State agency has written policies establishing conditions and procedures for such grants.

§ 228.83 Financial assistance to students.

FFP is available for expenditures for payments for training to students employed by the State agency or by a provider only in accordance with § 228.81 and only if there is a commitment by the student to continue to work in the agency or the provider for a period of time equal to the period for which financial assistance is granted.

§ 228.84 Activities and costs matchable as training expenditures.

Such costs, include, but are not limited to:

(a) Salaries (including fringe benefits), travel, costs of education (including tuition, books and supplies) of State agency employees who are in attendance full-time at training programs for eight consecutive work weeks or longer, and where such employees are not engaged in service delivery except as students in field placement; and, with the exception of salaries, the same costs for provider employees in training;

(b) Payment of travel, per diem and educational expenses of employees while they are attending training programs for less than eight consecutive work weeks;

(c) Payment of educational expenses (tuition, books, supplies) for employees on part-time educational leave (part of the working week, evenings, mornings);

(d) Payment of salaries for State agency training personnel, including clerical and other staff, travel, per diem, rent, postage, equipment, teaching materials (including purchase of developing teaching materials), and teaching aides. (Costs for training personnel spending less than full time on title XX training must be allocated.);

(e) Payments to experts to develop or conduct special programs, including costs of salaries (and fringe benefits), travel and per diem;

(f) Costs of rental of space attributable to training activities as defined in this Part; and

(g) Grants to educational institutions as defined in § 228.82 for classroom instruction and related field instruction, including salaries and fringe benefits, clerical assistance, necessary travel, and teaching materials and equipment, such as books and audiovisual aids.

§ 228.85 Activities and costs not matchable as training expenditures.

FFP is not available for the following as training expenditures:

(a) Salaries of newly-employed workers in the State agency or a provider agency while they are in orientation;

(b) Salaries of State agency employees who attend training programs less than full-time for a period of less than eight consecutive work weeks;

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

(d) Attendance at meetings or conferences of professional organizations;

(e) Summer training for students who are not employed in the State agency; and

(f) Sabbatical leave for long-term employees for the State agency.

Subpart I—General Administrative Provisions

§ 228.90 Expenditures for which Federal financial participation is available.

(a) Federal financial participation is available only for expenditures which are identified and allocated in accordance with 45 CFR Part 74 and a cost allocation plan in accordance with 45 CFR 205.150.

(b) Under this Part, expenditures for the following are considered appropriate for the effective and efficient administration of the program:

(1) Salary, fringe benefits and travel costs of staff engaged in carrying out service work or service related work;

(2) Costs of related expenses, such as equipment, furniture, supplies, communications, and office space;

(3) Costs of State advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(4) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(5) Cost to the agency for the use of volunteers in the program;

(6) Costs of operation of agency facilities used solely for the provision of services, except that appropriate distribution

of costs is necessary when other agencies also use such facilities in carrying out their functions;

(7) Costs of administrative support activities furnished by other public agencies or other units within the single State agency which are properly cost allocated;

(8) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the agency in developing, planning, monitoring, and evaluating the services program; and

(9) Costs of public liability and other insurance protection.

§ 228.91 Expenditures for which Federal financial participation is not available.

(a) Federal financial participation is not available under this Part in expenditures for:

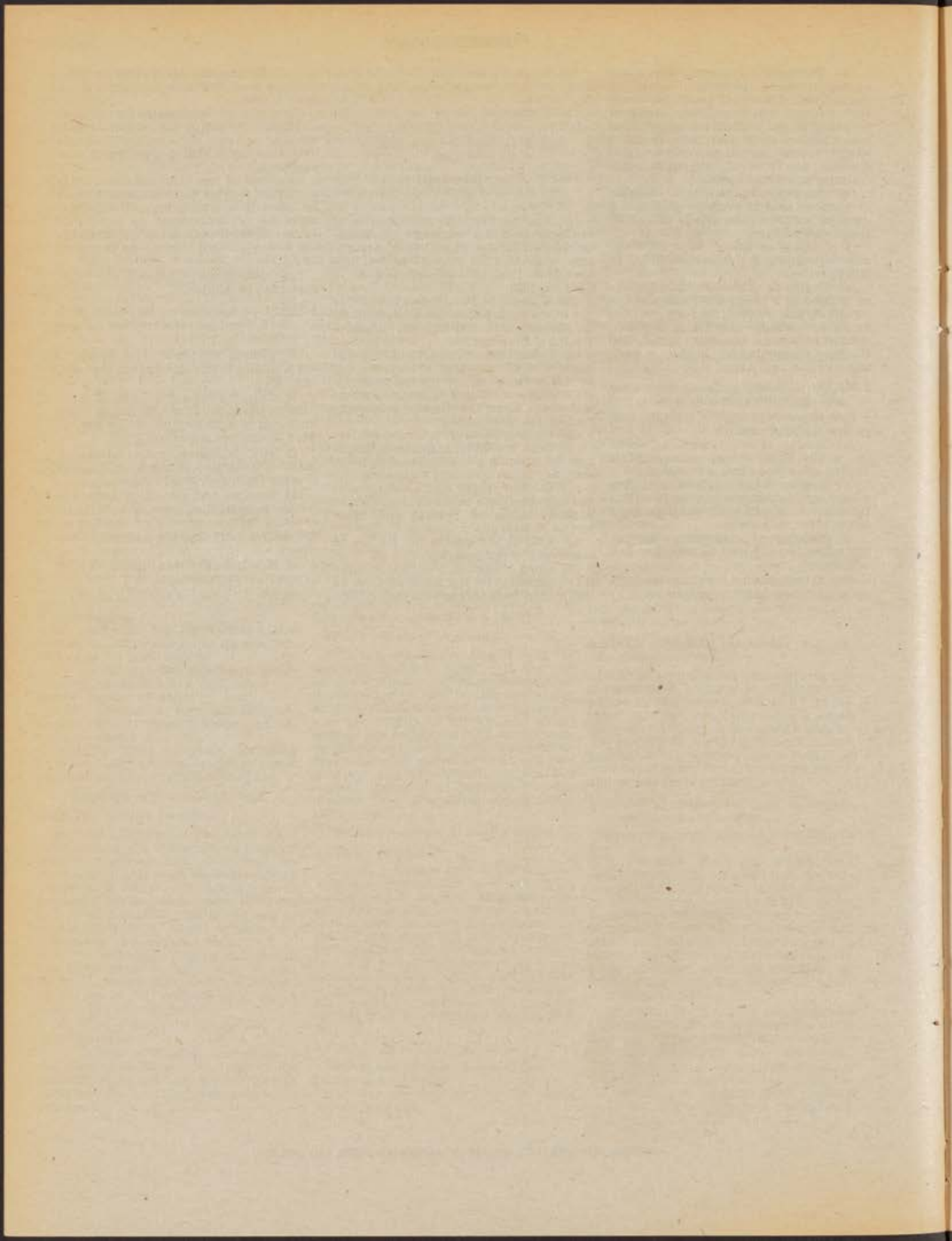
(1) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(2) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment;

(3) Housing and relocation costs, including construction, renovation or repair or winterization, moving of families or individuals, rent, deposits, and home purchase;

(4) Goods or services provided in-kind by a private organization.

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PART III



ENVIRONMENTAL PROTECTION AGENCY

**Preparation of Environmental
Impact Statements**



Final Regulations

Title 40—Protection of Environment
CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

[FRL 327-5]

PART 6—PREPARATION OF ENVIRON-
MENTAL IMPACT STATEMENTS

Final Regulation

The National Environmental Policy Act of 1969 (NEPA), implemented by Executive Order 11514 of March 5, 1970, and the Council on Environmental Quality's (CEQ's) Guidelines of August 1, 1973, requires that all agencies of the Federal Government prepare, detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. NEPA requires that agencies include in their decision-making process an appropriate and careful consideration of all environmental aspects of proposed actions, an explanation of potential environmental effects of proposed actions and their alternatives for public understanding, a discussion of ways to avoid or minimize adverse effects of proposed actions and a discussion of how to restore or enhance environmental quality as much as possible.

On January 17, 1973, the Environmental Protection Agency (EPA) published a new Part 6 in interim form in the FEDERAL REGISTER (38 FR 1696), establishing EPA policy and procedures for the identification and analysis of environmental impacts and the preparation of environmental impact statements (EIS's) when significant impacts on the environment are anticipated.

On July 17, 1974, EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (39 FR 26254). The rulemaking provided detailed procedures for applying NEPA to EPA's nonregulatory programs only. A separate notice of administrative procedure published in the October 21, 1974, FEDERAL REGISTER (39 FR 37419) gave EPA's procedures for voluntarily preparing EIS's on certain regulatory activities. EIS procedures for another regulatory activity, issuing National Pollutant Discharge Elimination System (NPDES) discharge permits to new sources, will appear in 40 CFR 6. Associated amendments to the NPDES operating regulations, covering permits to new sources, will appear in 40 CFR 125.

The proposed regulation on the preparation of EIS's for nonregulatory programs was published for public review and comment. EPA received comments on this proposed regulation from environmental groups; Federal, State and local governmental agencies; industry; and private individuals. As a result of the comments received, the following changes have been made:

(1) Coastal zones, wild and scenic rivers, prime agricultural land and wildlife habitat were included in the criteria to be considered during the environmental review.

The Coastal Zone Management Act and the Wild and Scenic Rivers Act are intended to protect these environmentally sensitive areas; therefore, EPA should consider the effects of its projects on these areas. Protection of prime agricultural lands and wildlife habitat has become an important concern as a result of the need to further increase food production from domestic sources as well as commercial harvesting of fish and other wildlife resources and from the continuing need to preserve the diversity of natural resources for future generations.

(2) Consideration of the use of floodplains as required by Executive Order 11296 was added to the environmental review process.

Executive Order 11296 requires agencies to consider project alternatives which will preclude the uneconomic, hazardous or unnecessary use of floodplains to minimize the exposure of facilities to potential flood damage, lessen the need for future Federal expenditures for flood protection and flood disaster relief and preserve the unique and significant public value of the floodplain as an environmental resource.

(3) Statutory definitions of coastal zones and wild and scenic rivers were added to § 6.214(b).

These statutes define sensitive areas and require states to designate areas which must be protected.

(4) The review and comment period for negative declarations was extended from 15 days to 15 working days.

Requests for negative declarations and comments on negative declarations are not acted on during weekends and on holidays. In addition, mail requests often take two or three days to reach the appropriate office and several more days for action and delivery of response. Therefore, the new time frame for review and response to a negative declaration is more realistic without adding too much delay to a project.

(5) Requirements for more data in the negative declaration to clarify the proposed action were added in § 6.212(b).

Requiring a summary of the impacts of a project and other data to support the negative declaration in this document improves its usefulness as a tool to review the decision not to prepare a full EIS on a project.

(6) The definitions of primary and secondary impacts in § 6.304 were clarified.

The definitions were made more specific, especially in the issue areas of induced growth and growth rates, to reduce subjectivity in deciding whether an impact is primary or secondary.

(7) Procedures for EPA public hearings in Subpart D were clarified.

Language was added to this subpart to distinguish EPA public hearings from applicant hearings required by statute or regulation, such as the facilities plan hearings.

(8) The discussion of retroactive application (§ 6.504) was clarified and abbreviated.

The new language retains flexibility in decision making for the Regional Administrator while eliminating the ambiguity of the language in the interim regulation.

(9) The criteria for writing an EIS if wetlands may be affected were modified in § 6.510(b).

The new language still requires an EIS on a project which will be located on wetlands but limits the requirements for an EIS on secondary wetland effects to those which are significant and adverse.

(10) A more detailed explanation of the data required in environmental assessments (§ 6.512) was added.

Requiring more specific data in several areas, including energy production and consumption as well as land use trends and population projections, from the applicant will provide a more complete data base for the environmental review. Documentation of the applicant's data will allow EPA to evaluate the validity of this data.

(11) Subpart F, Guidelines for Compliance with NEPA in Research and Development Programs and Activities, was revised.

ORD simplified this subpart by removing the internal procedures and assignments of responsibility for circulation in internal memoranda. Only the general application of this regulation to ORD programs was retained.

(12) The discussions of responsibilities and document distribution procedures were moved to appendices attached to the regulations.

These sections were removed from the regulatory language to improve the readability of the regulation and because these discussions are more explanatory and do not need to have the legal force of regulatory language.

(13) Consideration of the Endangered Species Act of 1973 was incorporated into the regulation.

EPA recognizes its responsibility to assist with implementing legislation which will help preserve or improve our natural resources.

The major issues raised on this regulation were on new and proposed criteria for determining when to prepare an EIS and the retroactive application of the criteria to projects started before July 1, 1975. In addition to the new criteria which were added, CEQ requested the addition of several quantitative criteria for which parameters have not been set. These new criteria are being discussed with CEQ and may be added to the regulation at a future date. Changes in the discussion of retroactive application of the criteria are described in item 8 above.

EPA believes that Agency compliance with the regulations of Part 6 will enhance the present quality of human life without endangering the quality of the natural environment for future generations.

Effective date: This regulation will become effective April 14, 1975.

Dated: April 3, 1975.

RUSSELL E. TRAIN,
Administrator.

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EXHIBITS

1. (Page 1.) Notice of Intent Transmittal Memorandum Suggested Format.
- (Page 2.) Notice of Intent Suggested Format.
2. Public Notice and News Release Suggested Format.
3. Negative Declaration Suggested Format.

4. Environmental Impact Appraisal Suggested Format.
5. Cover Sheet Format for Environmental Impact Statements.
6. Summary Sheet Format for Environmental Impact Statements.
7. Flowchart for Solid Waste Management Program Operations.
- Appendix A—Checklist for Environmental Reviews.
- Appendix B—Responsibilities.
- Appendix C—Availability and Distribution of Documents.

Authority: Secs. 102, 103 of 83 Stat. 854 (42 U.S.C. 4321 et seq.)

Subpart A—General

§ 6.100 Purpose and policy.

(a) The National Environmental Policy Act (NEPA) of 1969, implemented by Executive Order 11514 and the Council on Environmental Quality's (CEQ's) Guidelines of August 1, 1973 (38 FR 20550), requires that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. NEPA requires that agencies include in the decision-making process appropriate and careful consideration of all environmental effects of proposed actions, explain potential environmental effects of proposed actions and their alternatives for public understanding, avoid or minimize adverse effects of proposed actions and restore or enhance environmental quality as much as possible.

(b) This part establishes Environmental Protection Agency (EPA) policy and procedures for the identification and analysis of the environmental impacts of EPA nonregulatory actions and the preparation and processing of environmental impact statements (EIS's) when significant impacts on the environment are anticipated.

§ 6.102 Definitions.

(a) "Environmental assessment" is a written analysis submitted to EPA by its grantees or contractors describing the environmental impacts of proposed actions undertaken with the financial support of EPA. For facilities or section 208 plans as defined in § 6.102 (j) and (k), the assessment must be an integral, though identifiable, part of the plan submitted to EPA for review.

(b) "Environmental review" is a formal evaluation undertaken by EPA to determine whether a proposed EPA action may have a significant impact on the environment. The environmental assessment is one of the major sources of information used in this review.

(c) "Notice of intent" is a memorandum, prepared after the environmental review, announcing to Federal, regional, State, and local agencies, and to interested persons, that a draft EIS will be prepared.

(d) "Environmental impact statement" is a report, prepared by EPA, which identifies and analyzes in detail the environmental impacts of a proposed EPA action and feasible alternatives.

(e) "Negative declaration" is a written announcement, prepared after the environmental review, which states that EPA has decided not to prepare an EIS and summarizes the environmental impact appraisal.

(f) "Environmental impact appraisal" is based on an environmental review and supports a negative declaration. It describes a proposed EPA action, its expected environmental impact, and the basis for the conclusion that no significant impact is anticipated.

(g) "NEPA-associated documents" are any one or combination of: notices of intent, negative declarations, exemption certifications, environmental impact appraisals, news releases, EIS's, and environmental assessments.

(h) "Responsible official" is an Assistant Administrator, Deputy Assistant Administrator, Regional Administrator or their designee.

(i) "Interested persons" are individuals, citizen groups, conservation organizations, corporations, or other non-governmental units, including applicants for EPA contracts or grants, who may be interested in, affected by, or technically competent to comment on the environmental impacts of the proposed EPA action.

(j) "Section 208 plan" is an areawide waste treatment management plan prepared under section 208 of the Federal Water Pollution Control Act (FWPCA), as amended, under 40 CFR Part 126 and 40 CFR Part 35, Subpart E.

(k) "Facilities plan" is a preliminary plan prepared as the basis for construction of publicly owned waste treatment works under Title II of FWPCA, as amended, under 40 CFR 35.917.

(l) "Intramural project" is an in-house project undertaken by EPA personnel.

(m) "Extramural project" is a project undertaken by grant or contract.

§ 6.104 Summary of procedures for implementing NEPA.

(a) *Responsible official.* The responsible official shall utilize a systematic, interdisciplinary approach to integrate natural and social sciences as well as environmental design arts in planning programs and making decisions which are subject to NEPA review. His staff may be supplemented by professionals from other agencies, universities or consultants whenever in-house capabilities are insufficiently interdisciplinary.

(b) *Environmental assessment.* Environmental assessments must be submitted to EPA by its grantees and contractors, as required in Subparts E, F, G, and H of this part. The assessment is used by EPA to decide if an EIS is required and to prepare one if necessary.

(c) *Environmental review.* Environmental reviews shall be made of proposed and certain ongoing EPA actions as required in § 6.106(c). This process shall consist of a study of the action to identify and evaluate the environmental impacts of the action. Types of grants, contracts and other actions requiring study are listed in the subparts following

Subpart D. The process shall include a review of any environmental assessment received to determine whether any significant impacts are anticipated, whether any changes can be made in the proposed action to eliminate significant adverse impacts, and whether an EIS is required. EPA has overall responsibility for this review, although its grantees and contractors will contribute to the review through their environmental assessments.

(d) *Notice of intent and EIS's.* When an environmental review indicates that a significant environmental impact may occur and the significant adverse impacts cannot be eliminated by making changes in the project, a notice of intent shall be published, and a draft EIS shall be prepared and distributed. After external coordination and evaluation of the comments received, a final EIS shall be prepared and distributed. EIS's should be prepared first on those proposed actions with the most adverse effects which are scheduled for earliest implementation and on other proposed actions according to priorities assigned by the responsible official.

(e) *Negative declaration and environmental impact appraisal.* When the environmental review indicates no significant impacts are anticipated or when the project is changed to eliminate the significant adverse impacts, a negative declaration shall be issued. For the cases in Subparts E, F, G, and H of this part, an environmental impact appraisal shall be prepared which summarizes the impacts, alternatives and reasons an EIS was not prepared. It shall remain on file and be available for public inspection.

§ 6.106 Applicability.

(a) *Administrative actions covered.* This part applies to the administrative actions listed below. The subpart referenced with each action lists the detailed NEPA procedures associated with the action. Administrative actions are:

- (1) Development of EPA legislative proposals;
- (2) Development of favorable reports on legislation initiated elsewhere and not accompanied by an EIS, when they relate to or affect matters within EPA's primary areas of responsibility;
- (3) For the programs under Title II of FWPCA, as amended, those administrative actions in § 6.504;
- (4) For the Office of Research and Development, those administrative actions in § 6.604;
- (5) For the Office of Solid Waste Management Programs, those administrative actions in § 6.702;
- (6) For construction of special purpose facilities and facility renovations, those administrative actions in § 6.804; and
- (7) Development of an EPA project in conjunction with or located near a project or complex of projects started by one or more Federal agencies when the cumulative effects of all the projects will be major allocations of resources or foreclosures of future land use options.

(b) *Administrative actions excluded.* The requirements of this part do not apply to environmentally protective regulatory activities undertaken by EPA, nor to projects exempted in § 6.504, § 6.604, and § 6.702.

(c) *Application to ongoing actions.* This regulation shall apply to uncompleted and continuing EPA actions initiated before the promulgation of these procedures when modifications of or alternatives to the EPA action are still available, except for the Title II construction grants program. Specific application for the construction grants program is in § 6.504(c). An EIS shall be prepared for each project found to have significant environmental effects as described in § 6.200.

(d) *Application to legislative proposals.* (1) As noted in paragraphs (a) (1) and (2) of this section, EIS's or negative declarations shall be prepared for legislative proposals or favorable reports relating to legislation which may significantly affect the environment. Because of the nature of the legislative process, EIS's for legislation must be prepared and reviewed according to the procedures followed in the development and review of the legislative matter. These procedures are described in Office of Management and Budget (OMB) Circular No. A-19.

(2) A working draft EIS shall be prepared by the EPA office responsible for preparing the legislative proposal or report on legislation. It shall be prepared concurrently with the development of the legislative proposal or report and shall contain the information required in § 6.304. The EIS shall be circulated for internal EPA review with the legislative proposal or report and other supporting documentation. The working draft EIS shall be modified to correspond with changes made in the proposal or report during the internal review. All major alternatives developed during the formulation and review of the proposal or report should be retained in the working draft EIS.

(i) The working draft EIS shall accompany the legislative proposal or report to OMB. EPA shall revise the working draft EIS to respond to comments from OMB and other Federal agencies.

(ii) Upon transmittal of the legislative proposal or report to Congress, the working draft EIS will be forwarded to CEQ and the Congress as a formal legislative EIS. Copies will be distributed according to procedures described in Appendix C.

(iii) Comments received by EPA on the legislative EIS shall be forwarded to the appropriate Congressional Committees. EPA also may respond to specific comments and forward its responses with the comments. Because legislation undergoes continuous changes in Congress beyond the control of EPA, no final EIS need be prepared by EPA.

§ 6.108 Completion of NEPA procedures before starting administrative action.

(a) No administrative action shall be taken until the environmental review

process, resulting in an EIS or a negative declaration with environmental appraisal, has been completed.

(b) *When an EIS will be prepared.* Except when requested by the responsible official in writing and approved by CEQ, no administrative action shall be taken sooner than ninety (90) calendar days after a draft EIS has been distributed or sooner than thirty (30) calendar days after the final EIS has been made public. If the final text of an EIS is filed within ninety (90) days after a draft EIS has been circulated for comment, furnished to CEQ and made public, the minimum thirty (30) day period and the ninety (90) day period may run concurrently if they overlap. The minimum periods for review and advance availability of EIS's shall begin on the date CEQ publishes the notice of receipt of the EIS in the FEDERAL REGISTER. In addition, the proposed action should be modified to conform with any changes EPA considers necessary before the final EIS is published.

(c) *When an EIS will not be prepared.* If EPA decides not to prepare an EIS on any action listed in this part for which a negative declaration with environmental appraisal has been prepared, no administrative action shall be taken for at least fifteen (15) working days after the negative declaration is issued to allow public review of the decision. If significant environmental issues are raised during the review period, the decision may be changed and a new environmental appraisal or an EIS may be prepared.

§ 6.110 Responsibilities.

See Appendix B for responsibilities of this part.

Subpart B—Procedures

§ 6.200 Criteria for determining when to prepare an EIS.

The following general criteria shall be used when reviewing a proposed EPA action to determine if it will have a significant impact on the environment and therefore require an EIS:

(a) *Significant environmental effects.*

(1) An action with both beneficial and detrimental effects should be classified as having significant effects on the environment, even if EPA believes that the net effect will be beneficial. However, preference should be given to preparing EIS's on proposed actions which, on balance, have adverse effects.

(2) When determining the significance of a proposed action's impacts, the responsible official shall consider both its short term and long term effects as well as its primary and secondary effects as defined in § 6.304(c). Particular attention should be given to changes in land use patterns; changes in energy supply and demand; increased development in floodplains; significant changes in ambient air and water quality or noise levels; potential violations of air quality, water quality and noise level standards; significant changes in surface or groundwater quality or quantity; and encroach-

ments on wetlands, coastal zones, or fish and wildlife habitat, especially when threatened or endangered species may be affected.

(3) Minor actions which may set a precedent for future major actions with significant adverse impacts or a number of actions with individually insignificant but cumulatively significant adverse impacts shall be classified as having significant environmental impacts. If EPA is taking a number of minor, environmentally insignificant actions that are similar in execution and purpose, during a limited time span and in the same general geographic area, the cumulative environmental impact of all of these actions shall be evaluated.

(4) In determining the significance of a proposed action's impact, the unique characteristics of the project area should be carefully considered. For example, proximity to historic sites, parklands or wild and scenic rivers may make the impact significant. A project discharging into a drinking water aquifer may make the impact significant.

(5) A proposed EPA action which will have direct and significant adverse effects on a property listed in or eligible for listing in the National Register of Historic Places or will cause irreparable loss or destruction of significant scientific, prehistoric, historic or archaeological data shall be classified as having significant environmental impacts.

(b) *Controversial actions.* An EIS shall be prepared when the environmental impact of a proposed EPA action is likely to be highly controversial.

(c) *Additional criteria for specific programs.* Additional criteria for various EPA programs are in Subpart E (Title II Wastewater Treatment Works Construction Grants Program), Subpart F (Research and Development Programs), Subpart G (Solid Waste Management Programs) and Subpart H (Construction of Special Facilities and Facility Renovations).

§ 6.202 Environmental assessment.

Environmental assessments must be submitted to EPA by its grantees and contractors as required in Subparts E, F, G, and H of this part. The assessment is to ensure that the applicant considers the environmental impacts of the proposed action at the earliest possible point in his planning process. The assessment and other relevant information are used by EPA to decide if an EIS is required. While EPA is responsible for ensuring that EIS's are factual and comprehensive, it expects assessments and other data submitted by grantees and contractors to be accurate and complete. The responsible official may request additional data and analyses from grantees or other sources any time he determines they are needed to comply adequately with NEPA.

§ 6.204 Environmental review.

Proposed EPA actions, as well as ongoing EPA actions listed in § 6.106(c), shall be subjected to an environmental

review. This review shall be a continuing one, starting at the earliest possible point in the development of the project. It shall consist of a study of the proposed action, including a review of any environmental assessments received, to identify and evaluate the environmental impacts of the proposed action and feasible alternatives. The review will determine whether significant impacts are anticipated from the proposed action, whether any feasible alternatives can be adopted or changes can be made in project design to eliminate significant adverse impacts, and whether an EIS or a negative declaration is required. The responsible official shall determine the proper scope of the environmental review. The responsible official may delay approval of related projects until the proposals can be reviewed together to allow EPA to properly evaluate their cumulative impacts.

§ 6.206 Notice of intent.

(a) *General.* (1) When an environmental review indicates a significant impact may occur and significant adverse impacts cannot be eliminated by making changes in the project, a notice of intent, announcing the preparation of a draft EIS, shall be issued by the responsible official. The notice shall briefly describe the EPA action, its location, and the issues involved (Exhibit 1).

(2) The purpose of a notice of intent is to involve other government agencies and interested persons as early as possible in the planning and evaluation of EPA actions which may have significant environmental impacts. This notice should encourage agency and public input to a draft EIS and assure that environmental values will be identified and weighed from the outset rather than accommodated by adjustments at the end of the decision-making process.

(b) *Specific actions.* The specific actions to be taken by the responsible official on notices of intent are:

(1) When the review process indicates a significant impact may occur and significant adverse impacts cannot be eliminated by making changes in the project, prepare a notice of intent immediately after the environmental review.

(2) Distribute copies of the notice of intent as required in Appendix C.

(3) Publish in a local newspaper, with adequate circulation to cover the area affected by the project, a brief public notice stating that an EIS will be prepared on a particular project, and the public may participate in preparing the EIS (Exhibit 2). News releases also may be submitted to other media.

(c) *Regional office assistance to program offices.* Regional offices will provide assistance to program offices in taking these specific actions when the EIS originates in a program office.

§ 6.208 Draft EIS's.

(a) *General.* (1) The responsible official shall assure that a draft EIS is prepared as soon as possible after the release of the notice of intent. Before releasing

the draft EIS to CEQ, a preliminary version may be circulated for review to other offices within EPA with interest in or technical expertise related to the action. Then the draft EIS shall be sent to CEQ and circulated to Federal, State, regional and local agencies with special expertise or jurisdiction by law, and to interested persons. If the responsible official determines that a public hearing on the proposed action is warranted, the hearing will be held after the draft EIS is prepared, according to the requirements of § 6.402.

(2) Draft EIS's should be prepared at the earliest possible point in the project development. If the project involves a grant applicant or potential contractor, he must submit any data EPA requests for preparing the EIS. Where a plan or program has been developed by EPA or submitted to EPA for approval, the relationship between the plan and the later projects encompassed by its shall be evaluated to determine the best time to prepare an EIS. Whenever possible, an EIS will be drafted for the total program at the initial planning stage. Then later component projects included in the plan will not require individual EIS's unless they differ substantially from the plan, or unless the overall plan did not provide enough detail to fully assess significant impacts of individual projects. Plans shall be reevaluated by the responsible official to monitor the cumulative impact of the component projects and to preclude the plans' obsolescence.

(b) *Specific actions.* The specific actions to be taken by the responsible official on draft EIS's are:

(1) Distribute the draft EIS according to the procedures in Appendix C.

(2) Inform the agencies to reply directly to the originating EPA office. Commenting agencies shall have at least forty-five (45) calendar days to reply, starting from the date of publication in the FEDERAL REGISTER of lists of statements received by CEQ. If no comments are received during the reply period and no time extension has been requested, it shall be presumed that the agency has no comment to make. EPA may grant extensions of fifteen (15) or more calendar days. The time limits for review and extensions for State and local agencies; State, regional, and metropolitan clearinghouses; and interested persons shall be the same as those available to Federal agencies.

(3) Publish a notice in local newspapers stating that the draft EIS is available for comment and listing where copies may be obtained (Exhibit 2), and submit news releases to other media.

(4) Include in the draft EIS a notice stating that only those Federal, State, regional, and local agencies and interested persons who make substantive comments on the draft EIS or request a copy of the final EIS will be sent a copy.

(c) *Regional office assistance to program office.* If requested, regional offices will provide assistance to program offices in taking these specific actions when the EIS originates in a program office.

§ 6.210 Final EIS's.

(a) Final EIS's shall respond to all substantive comments raised through the review of the draft EIS. Special care should be taken to respond fully to comments disagreeing with EPA's position. (See also § 6.304(g).)

(b) Distribution and other specific actions are described in Appendix C. If there is an applicant, he shall be sent a copy. When the number of comments on the draft EIS is so large that distribution of the final EIS to all commenting entities appears impractical, the program or regional office preparing the EIS shall consult with OFA, which will consult with CEQ about alternative arrangements for distribution of the EIS.

§ 6.212 Negative declaration and environmental impact appraisals.

(a) *General.* When an environmental review indicates there will be no significant impact or significant adverse impacts have been eliminated by making changes in the project, the responsible official shall prepare a negative declaration to allow public review of his decision before it becomes final. The negative declaration and news release must state that interested persons disagreeing with the decision may submit comments for consideration by EPA. EPA shall not take administrative action on the project for at least fifteen (15) working days after release of the negative declaration and may allow more time for response. The responsible official shall have an environmental impact appraisal supporting the negative declaration available for public review when the negative declaration is released for those cases given in Subparts E, F, G, and H.

(b) *Specific actions.* The responsible official shall take the following specific actions on those projects for which both a negative declaration and an impact appraisal will be prepared:

(1) *Negative declaration.* (i) Prepare a negative declaration immediately after the environmental review. This document shall briefly summarize the purpose of the project, its location, the nature and extent of the land use changes related to the project, and the major primary and secondary impacts of the project. It shall describe how the more detailed environmental impact appraisal may be obtained at cost. (See Exhibit 3.)

(ii) Distribute the negative declaration according to procedures in Appendix C. In addition, submit to local newspapers and other appropriate media a brief news release with a negative declaration attached, informing the public that a decision not to prepare an EIS has been made and a negative declaration and environmental impact appraisal are available for public review and comment (Exhibit 2).

(2) *Environmental impact appraisal.* (i) Prepare an environmental impact appraisal concurrently with the negative declaration. This document shall briefly describe the proposed action and feasible alternatives, environmental impacts of

the proposed action, unavoidable adverse impacts of the proposed action, the relationship between short term uses of man's environment and the maintenance and enhancement of long term productivity, steps to minimize harm to the environment, irreversible and irretrievable commitments of resources to implement the action, comments and consultations on the project, and reasons for concluding there will be no significant impacts. (See Exhibit 4.)

(ii) Distribute the environmental impact appraisal according to procedures in Appendix C.

§ 6.214 Additional procedures.

(a) *Historical and archaeological sites.* EPA is subject to the requirements of section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, Executive Order 11593, the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469 *et seq.*, and the regulations promulgated under this legislation. These statutes and regulations establish environmental review procedures which are independent of NEPA requirements.

(1) If an EPA action may affect properties with historic, architectural, archaeological or cultural value which are listed in the National Register of Historic Places (published in the FEDERAL REGISTER each February with supplements on the first Tuesday of each month), the responsible official shall comply with the procedures of the Advisory Council on Historic Preservation (36 CFR 800), including determining the need for a Memorandum of Agreement among EPA, the State Historic Preservation Officer and the Advisory Council. If a Memorandum of Agreement is executed, it shall be included in an EIS whenever one is prepared on a proposed action. See § 6.512(c) of this part for additional procedures for the construction grants program under Title II of the FWPCA, as amended.

(2) If an EPA action may cause irreparable loss or destruction of significant scientific, prehistoric, historic or archaeological data, the responsible official shall consult with the State Historic Preservation Officer in compliance with the Archaeological and Historic Preservation Act (P.L. 93-291).

(b) *Wetlands, floodplains, coastal zones, wild and scenic rivers, fish and wildlife.* The following procedures shall be applied to all EPA administrative actions covered by this part that may affect these environmentally sensitive resources.

(1) If an EPA action may affect wetlands, the responsible official shall consult with the appropriate offices of the Department of the Interior, Department of Commerce, and the U.S. Army Corps of Engineers during the environmental review to determine the probable impact of the action on the pertinent fish and wildlife resources and land use of these areas.

(2) If an EPA action may directly cause or induce the construction of buildings or other facilities in a floodplain, the

responsible official shall evaluate flood hazards in connection with these facilities as required by Executive Order 11296 and shall, as far as practicable, consider alternatives to preclude the uneconomic, hazardous or unnecessary use of floodplains to minimize the exposure of facilities to potential flood damage, lessen the need for future Federal expenditures for flood protection and flood disaster relief and preserve the unique and significant public value of the floodplain as an environmental resource.

(3) If an EPA action may affect coastal zones or coastal waters as defined in Title III of the Coastal Zone Management Act of 1972 (Pub. L. 92-583), the responsible official shall consult with the appropriate State offices and with the appropriate office of the Department of Commerce during the environmental review to determine the probable impact of the action on coastal zone or coastal water resources.

(4) If an EPA action may affect portions of rivers designated wild and scenic or being considered for this designation under the Wild and Scenic Rivers Act (Pub. L. 90-542), the responsible official shall consult with appropriate State offices and with the Secretary of the Interior or, where national forest lands are involved, with the Secretary of Agriculture during the environmental review to determine the status of an affected river and the probable impact of the action on eligible rivers.

(5) If an EPA action will result in the control or structural modification of any stream or other body of water for any purpose, including navigation and drainage, the responsible official shall consult with the United States Fish and Wildlife Service (Department of the Interior), the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (Department of Commerce), the U.S. Army Corps of Engineers and the head of the agency administering the wildlife resources of the particular State in which the action will take place with a view to the conservation of wildlife resources. This consultation shall follow the procedures in the Fish and Wildlife Coordination Act (Pub. L. 85-624) and shall occur during the environmental review of an action.

(6) If an EPA action may affect threatened or endangered species defined under section 4 of the Endangered Species Act of 1973 (Pub. L. 93-205), the responsible official shall consult with the Secretary of the Interior or the Secretary of Commerce, according to the procedures in section 7 of that act.

(7) Requests for consultation and the results of consultation shall be documented in writing. In all cases where consultation has occurred, the agencies consulted should receive copies of either the notice of intent and EIS or the negative declaration and environmental appraisal prepared on the proposed action. If a decision has already been made to prepare an EIS on a project and wetlands, floodplains, coastal zones, wild

and scenic rivers, fish or wildlife may be affected, the required consultation may be deferred until the preparation of the draft EIS.

§ 6.216 Availability of documents.

(a) EPA will print copies of draft and final EIS's for agency and public distribution. A nominal fee may be charged for copies requested by the public.

(b) When EPA no longer has copies of an EIS to distribute, copies shall be made available for public inspection at regional and headquarters Offices of Public Affairs. Interested persons also should be advised of the availability (at cost) of the EIS from the Environmental Law Institute, 1356 Connecticut Avenue NW., Washington, D.C. 20036.

(c) Lists of EIS's prepared or under preparation and lists of negative declarations prepared will be available at both the regional and headquarters Offices of Public Affairs.

Subpart C—Content of Environmental Impact Statements

§ 6.300 Cover sheet.

The cover sheet shall indicate the type of EIS (draft or final), the official project name and number, the responsible EPA office, the date, and the signature of the responsible official. The format is shown in Exhibit 5.

§ 6.302 Summary sheet.

The summary sheet shall conform to the format in Exhibit 6, based on Appendix I of the August 1, 1973, CEQ Guidelines, or the latest revision of the CEQ Guidelines.

§ 6.304 Body of EIS.

The body of the EIS shall identify, develop, and analyze the pertinent issues discussed in the seven sections below; each section need not be a separate chapter. This analysis should include, but not be limited to, consideration of the impacts of the proposed project on the environmental areas listed in Appendix A which are relevant to the project. The EIS shall serve as a means for the responsible official and the public to assess the environmental impacts of a proposed EPA action, rather than as a justification for decisions already made. It shall be prepared using a systematic, interdisciplinary approach and shall incorporate all relevant analytical disciplines to provide meaningful and factual data, information, and analyses. The presentation of data should be clear and concise, yet include all facts necessary to permit independent evaluation and appraisal of the beneficial and adverse environmental effects of alternative actions. The amount of detail provided should be commensurate with the extent and expected impact of the action and the amount of information required at the particular level of decision making. To the extent possible, an EIS shall not be drafted in a style which requires extensive scientific or technical expertise to comprehend and evaluate the environmental impact of a proposed EPA action.

(a) *Background and description of the proposed action.* The EIS shall describe the recommended or proposed action, its purpose, where it is located and its time setting. When a decision has been made not to favor an alternative until public comments on a proposed action have been received, the draft EIS may treat all feasible alternatives at similar levels of detail; the final EIS should focus on the alternative the draft EIS and public comments indicate is the best. The relationship of the proposed action to other projects and proposals directly affected by or stemming from it shall be discussed, including not only other EPA activities, but also those of other governmental and private organizations. Land use patterns and population trends in the project area and the assumptions on which they are based also shall be included. Available maps, photos, and artists' sketches should be incorporated when they help depict the environmental setting.

(b) *Alternatives to the proposed action.* The EIS shall develop, describe, and objectively weigh feasible alternatives to any proposed action, including the options of taking no action or postponing action. The analysis should be detailed enough to show EPA's comparative evaluation of the environmental impacts, commitments of resources, costs, and risks of the proposed action and each feasible alternative. For projects involving construction, alternative sites must be analyzed in enough detail for reviewers independently to judge the relative desirability of each site. For alternatives involving regionalization, the effects of varying degrees of regionalization should be addressed. If a cost-benefit analysis is prepared, it should be appended to the EIS and referenced in the body of the EIS. In addition, the reasons why the proposed action is believed by EPA to be the best course of action shall be explained.

(c) *Environmental impacts of the proposed action.* (1) The positive and negative effects of the proposed action as it affects both the national and international environment should be assessed. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Primary attention should be given to those factors most evidently affected by the proposed action. The factors shall include, where appropriate, the proposed action's effects on the resource base, including land, water quality and quantity, air quality, public services and energy supply. The EIS shall describe primary and secondary environmental impacts, both beneficial and adverse, anticipated from the action. The description shall include short term and long term impacts on both the natural and human environments.

(2) Primary impacts are those that can be attributed directly to the proposed action. If the action is a field experiment, materials introduced into the environment which might damage certain plant communities or wildlife species would be a primary impact. If the action

involves construction of a facility, such as a sewage treatment works, an office building or a laboratory, the primary impacts of the action would include the environmental impacts related to construction and operation of the facility and land use changes at the facility site.

(3) Secondary impacts are indirect or induced changes. If the action involves construction of a facility, the secondary impacts would include the environmental impacts related to:

(i) Induced changes in the pattern of land use, population density and related effects on air and water quality or other natural resources;

(ii) Increased growth at a faster rate than planned for or above the total level planned by the existing community.

(4) A discussion of how socioeconomic activities and land use changes related to the proposed action conform or conflict with the goals and objectives of approved or proposed Federal, regional, State and local land use plans, policies and controls for the project area should be included in the EIS. If a conflict appears to be unresolved in the EIS, EPA should explain why it has decided to proceed without full reconciliation.

(d) *Adverse impacts which cannot be avoided should the proposal be implemented and steps to minimize harm to the environment.* The EIS shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced to an acceptable level but not eliminated. These may include water or air pollution, undesirable land use patterns, damage to fish and wildlife habitats, urban congestion, threats to human health or other consequences adverse to the environmental goals in section 101(b) of NEPA. Protective and mitigative measures to be taken as part of the proposed action shall be identified. These measures to reduce or compensate for any environmentally detrimental aspect of the proposed action may include those of EPA, its contractors and grantees and others involved in the action.

(e) *Relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity.* The EIS shall describe the extent to which the proposed action involves tradeoffs between short term environmental gains at the expense of long term gains or vice-versa and the extent to which the proposed action forecloses future options. Special attention shall be given to effects which narrow the range of future uses of land and water resources or pose long term risks to health or safety. Consideration should be given to windfall gains or significant decreases in current property values from implementing the proposed action. In addition, the reasons the proposed action is believed by EPA to be justified now, rather than reserving a long term option for other alternatives, including no action, shall be explained.

(f) *Irreversible and irretrievable commitments of resources to the proposed action should it be implemented.* The EIS shall describe the extent to which

the proposed action requires commitment of construction materials, person-hours and funds to design and implement the project, as well as curtails the range of future uses of land and water resources. For example, induced growth in undeveloped areas may curtail alternative uses of that land. Also, irreversible environmental damage can result from equipment malfunctions or industrial accidents at the project site. Therefore, the need for any irretrievable and significant commitments of resources shall be explained fully.

(g) *Problems and objections raised by other Federal, State and local agencies and by interested persons in the review process.* Final EIS's (and draft EIS's if appropriate) shall summarize the comments and suggestions made by reviewing organizations and shall describe the disposition of issues raised, e.g., revisions to the proposed action to mitigate anticipated impacts or objections. In particular, the EIS shall address the major issues raised when the EPA position differs from most recommendations and explain the factors of overriding importance overruling the adoption of suggestions. Reviewer's statements should be set forth in a "comment" and discussed in a "response." In addition, the source of all comments should be clearly identified, and copies of the comments should be attached to the final EIS. Summaries of comments should be attached when a response has been exceptionally long or the same comments were received from many reviewers.

§ 6.306 Documentation.

All books, research reports, field study reports, correspondence and other documents which provided the data base for evaluating the proposed action and alternatives discussed in the EIS shall be used as references in the body of the EIS and shall be included in a bibliography attached to the EIS.

Subpart D—EPA Public Hearings on EIS's

§ 6.400 General.

While EPA is not required by statute to hold public hearings on EIS's, the responsible official should hold a public hearing on a draft EIS whenever a hearing may facilitate the resolution of conflicts or significant public controversy. This hearing may be in addition to public hearings held on facilities plans or section 209 plans. The responsible official may take special measures to involve interested persons through personal contact.

§ 6.402 Public hearing process.

(a) When public hearings are to be held, EPA shall inform the public of the hearing, for example, with a notice in the draft EIS. The notice should follow the summary sheet at the beginning of the EIS. The draft EIS shall be available for public review at least thirty (30) days before the public hearing. Public notice shall be given at least fifteen (15) working days before the public hearing and shall include:

(1) Publication of a public notice in a newspaper which covers the project area, identifying the project, announcing the date, time and place of the hearing and announcing the availability of detailed information on the proposed action for public inspection at one or more locations in the area in which the project will be located. "Detailed information" shall include a copy of the project application and the draft EIS.

(2) Notification of appropriate State and local agencies and appropriate State, regional and metropolitan clearing-houses.

(3) Notification of interested persons.

(b) A written record of the hearing shall be made. A stenographer may be used to record the hearing. As a minimum, the record shall contain a list of witnesses with the text of each presentation. A summary of the record, including the issues raised, conflicts resolved and unresolved, and any other significant portions of the record, shall be appended to the final EIS.

(c) When a public hearing has been held by another Federal, State, or local agency on an EPA action, additional hearings are not necessary. The responsible official shall decide if additional hearings are needed.

(d) When a program office is the originating office, the appropriate regional office will provide assistance to the originating office in holding any public hearing if assistance is requested.

Subpart E—Guidelines for Compliance With NEPA in the Title II Wastewater Treatment Works Construction Grants Program and the Area-wide Waste Treatment Management Planning Program

§ 6.500 Purpose.

This subpart amplifies the general EPA policies and procedures described in Subparts A through D with detailed procedures for compliance with NEPA in the wastewater treatment works construction grants program and the area-wide waste treatment management planning program.

§ 6.502 Definitions.

(a) "Step 1 grant." A grant for preparation of a facilities plan as described in 40 CFR 35.930-1.

(b) "Step 2 grant." A grant for preparation of construction drawings and specifications as described in 40 CFR 35.930-1.

(c) "Step 3 grant." A grant for fabrication and building of a publicly owned treatment works as described in 40 CFR 35.930-1.

§ 6.504 Applicability.

(a) *Administrative actions covered.* This subpart applies to the administrative actions listed below:

(1) Approval of all section 208 plans according to procedures in 40 CFR 35.1067-2;

(2) Approval of all facilities plans except those listed in paragraph (a) (5) of this section;

(3) Award of step 2 and step 3 grants, if an approved facilities plan was not required;

(4) Award of a step 2 or step 3 grant when either the project or its impact has changed significantly from that described in the approved facilities plan, except when the situation in paragraph (a) (5) of this section exists;

(5) Consultation during the NEPA review process. When there are overriding considerations of cost or impaired program effectiveness, the Regional Administrator may award a step 2 or a step 3 grant for a discrete segment of the project plans or construction before the NEPA review is completed if this project segment is noncontroversial. The remaining portion of the project shall be evaluated to determine if an EIS is required. In applying the criteria for this determination, the entire project shall be considered, including those parts permitted to proceed. In no case may these types of step 2 or step 3 grants be awarded unless both the Office of Federal Activities and CEQ have been consulted, a negative declaration has been issued on the segments permitted to proceed, and the grant award contains a specific agreement prohibiting action on the segment of planning or construction for which the NEPA review is not complete. Examples of consultation during the NEPA review process are: award of a step 2 grant for preparation of plans and specifications for a large treatment plant, when the only unresolved NEPA issue is where to locate the sludge disposal site; or award of a step 3 grant for site clearance for a large treatment plant, when the unresolved NEPA issue is whether sludge from the plant should be incinerated at the site or disposed of elsewhere by other means.

(b) *Administrative actions excluded.* The actions listed below are not subject to the requirements of this part:

(1) Approval of State priority lists;

(2) Award of a step 1 grant;

(3) Award of a section 208 planning grant;

(4) Award of a step 2 or step 3 grant when no significant changes in the facilities plan have occurred;

(5) Approval of issuing an invitation for bid or awarding a construction contract;

(6) Actual physical commencement of building or fabrication;

(7) Award of a section 206 grant for reimbursement;

(8) Award of grant increases whenever § 6.504(a) (4) does not apply;

(9) Awards of training assistance under FWPCA, as amended, section 109(b).

(c) *Retroactive application.* The new criteria in § 6.510 of this subpart do not apply to step 2 or step 3 grants awarded before July 1, 1975. However, the Regional Administrator may apply the new criteria of this subpart when he considers it appropriate. Any negative declarations issued before the effective date of this regulation shall remain in effect.

§ 6.506 Completion of NEPA procedures before start of administrative actions.

See § 6.108 and § 6.504.

§ 6.510 Criteria for preparation of environmental impact statements.

In addition to considering the criteria in § 6.200, the Regional Administrator shall assure that an EIS will be prepared on a treatment works facilities plan, 208 plan or other appropriate water quality management plan when:

(a) The treatment works or plan will induce significant changes (either absolute changes or increases in the rate of change) in industrial, commercial, agricultural, or residential land use concentrations or distributions. Factors that should be considered in determining if these changes are significant include but are not limited to: the vacant land subject to increased development pressure as a result of the treatment works; the increases in population which may be induced; the faster rate of change of population; changes in population density; the potential for overloading sewage treatment works; the extent to which landowners may benefit from the areas subject to increased development; the nature of land use regulations in the affected area and their potential effects on development; and deleterious changes in the availability or demand for energy.

(b) Any major part of the treatment works will be located on productive wetlands or will have significant adverse effects on wetlands, including secondary effects.

(c) Any major part of the treatment works will be located on or significantly affect the habitat of wildlife on the Department of Interior's threatened and endangered species lists.

(d) Implementation of the treatment works or plan may directly cause or induce changes that significantly:

- (1) Displace population;
- (2) Deface an existing residential area; or

(3) Adversely affect significant amounts of prime agricultural land or agricultural operations on this land.

(e) The treatment works or plan will have significant adverse effects on parklands, other public lands or areas of recognized scenic, recreational, archaeological or historic value.

(f) The works or plan may directly or through induced development have a significant adverse effect upon local ambient air quality, local ambient noise levels, surface or groundwater quantity or quality, fish, wildlife, and their natural habitats.

(g) The treated effluent is being discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality to meet the requirements of these uses.

§ 6.512 Procedures for implementing NEPA.

(a) *Environmental assessment.* An adequate environmental assessment must be an integral, though identifiable, part

of any facilities or section 208 plan submitted to EPA. (See § 6.202 for a general description.) The information in the facilities plan, particularly the environmental assessment, will provide the substance of an EIS and shall be submitted by the applicant. The analyses that constitute an adequate environmental assessment shall include:

(1) *Description of the existing environment without the project.* This shall include for the delineated planning area a description of the present environmental conditions relevant to the analysis of alternatives or determinations of the environmental impacts of the proposed action. The description shall include, but not be limited to, discussions of which-ever areas are applicable to a particular study: surface and groundwater quality; water supply and use; general hydrology; air quality; noise levels; energy production and consumption; land use trends; population projections, wetlands, floodplains, coastal zones and other environmentally sensitive areas; historic and archaeological sites; other related Federal or State projects in the area; and plant and animal communities which may be affected, especially those containing threatened or endangered species.

(2) *Description of the future environment without the project.* The future environmental conditions with the no project alternative shall be forecast, covering the same areas listed in § 6.512 (a) (1).

(3) *Documentation.* Sources of information used to describe the existing environment and to assess future environmental impacts should be documented. These sources should include regional, State and Federal agencies with responsibility or interest in the types of impacts listed in § 6.512 (a) (1). In particular, the following agencies should be consulted:

(i) Local and regional land use planning agencies for assessments of land use trends and population projections, especially those affecting size, timing, and location of facilities, and planning activities funded under section 701 of the Housing and Community Development Act of 1974 (Pub. L. 93-383);

(ii) The HUD Regional Office if a project involves a flood risk area identified under the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(iii) The State coastal zone management agency, if a coastal zone is affected;

(iv) The Secretary of the Interior or Secretary of Agriculture, if a wild and scenic river is affected;

(v) The Secretary of the Interior or Secretary of Commerce, if a threatened or endangered species is affected;

(vi) The Fish and Wildlife Service (Department of Interior), the Department of Commerce, and the U.S. Army Corps of Engineers, if a wetland is affected.

(4) *Evaluation of alternatives.* This discussion shall include a comparative analysis of feasible options and a systematic development of wastewater treatment alternatives. The alternatives shall be screened with respect to capital and operating costs; significant primary

and secondary environmental effects; physical, legal or institutional constraints; and whether or not they meet regulatory requirements. Special attention should be given to long term impacts, irreversible impacts and induced impacts such as development. The reasons for rejecting any alternatives shall be presented in addition to any significant environmental benefits precluded by rejection of an alternative. The analysis should consider, when relevant to the project:

(i) Flow and waste reduction measures, including infiltration/inflow reduction;

(ii) Alternative locations, capacities, and construction phasing of facilities;

(iii) Alternative waste management techniques, including treatment and discharge, wastewater reuse and land application;

(iv) Alternative methods for disposal of sludge and other residual waste, including process options and final disposal options;

(v) Improving effluent quality through more efficient operation and maintenance;

(vi) For assessments associated with section 208 plans, the analysis of options shall include in addition:

(A) Land use and other regulatory controls, fiscal controls, non-point source controls, and institutional arrangements; and

(B) Land management practices.

(5) *Environmental impacts of the proposed action.* Primary and secondary impacts of the proposed action shall be described, giving special attention to unavoidable impacts, steps to mitigate adverse impacts, any irreversible or irretrievable commitments of resources to the project and the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity. See § 6.304 (c), (d), (e), and (f) for an explanation of these terms and examples. The significance of land use impacts shall be evaluated, based on current population of the planning area; design year population for the service area; percentage of the service area currently vacant; and plans for staging facilities. Special attention should be given to induced changes in population patterns and growth, particularly if a project involves some degree of regionalization. In addition to these items, the Regional Administrator may require that other analyses and data, which he determines are needed to comply with NEPA, be included with the facilities or section 208 plan. Such requirements should be discussed during preapplication conferences. The Regional Administrator also may require submission of supplementary information either before or after a step 2 grant or before a step 3 grant award if he determines it is needed for compliance with NEPA. Requests for supplementary information shall be made in writing.

(6) *Steps to minimize adverse effects.* This section shall describe structural and

nonstructural measures, if any, in the facilities plan to mitigate or eliminate significant adverse effects on the human and natural environments. Structural provisions include changes in facility design, size, and location; nonstructural provisions include staging facilities as well as developing and enforcing land use regulations and environmentally protective regulations.

(b) *Public hearing.* The applicant shall hold at least one public hearing before a facilities plan is adopted, unless waived by the Regional Administrator before completion of the facilities plan according to § 35.917-5 of the Title II construction grants regulations. Hearings should be held on section 208 plans. A copy of the environmental assessment should be available for public review before the hearing and at the hearing, since these hearings provide an opportunity to accept public input on the environmental issues associated with the facilities plan or the 208 water quality management strategy. In addition, a Regional Administrator may elect to hold an EPA hearing if environmental issues remain unresolved. EPA hearings shall be held according to procedures in § 6.402.

(c) *Environmental review.* An environmental review of a facilities plan or section 208 plan shall be conducted according to the procedures in § 6.204 and applying the criteria of § 6.510. If deficiencies exist in the environmental assessment, they shall be identified in writing by the Regional Administrator and must be corrected before the plan can be approved.

(d) *Additional procedures.* (1) Historic and archaeological sites. If a facilities or section 208 plan may affect properties with historic, architectural, archaeological or cultural value which are listed in or eligible for listing in the National Register of Historic Places or may cause irreparable loss or destruction of significant scientific, prehistoric, historic or archaeological data, the applicant shall follow the procedures in § 6.214(a).

(2) If the facilities or section 208 plan may affect wetlands, floodplains, coastal zones, wild and scenic rivers, fish or wildlife, the Regional Administrator shall follow the appropriate procedures described in § 6.214(b).

(e) *Notice of intent.* The notice of intent on a facilities plan or section 208 plan shall be issued according to § 6.206.

(f) *Scope of EIS.* It is the Regional Administrator's responsibility to determine the scope of the EIS. He should determine if an EIS should be prepared on a facilities plan(s) or section 208 plan and which environmental areas should be discussed in greatest detail in the EIS. Once an EIS has been prepared for the designated section 208 area, another need not be prepared unless the significant impacts of individual facilities or other plan elements were not adequately treated in the EIS. The Regional Administrator should document his decision not to prepare an EIS on individual facilities.

(g) *Negative declaration.* A negative declaration on a facilities plan or section 208 plan shall be prepared according to § 6.212. Once a negative declaration and environmental appraisal have been prepared for the facilities plan for a certain area, grant awards may proceed without preparation of additional negative declarations, unless the project has changed significantly from that described in the facilities plan.

§ 6.514 Content of environmental impact statements.

EIS's for treatment works or plans shall be prepared according to § 6.304.

Subpart F—Guidelines for Compliance With NEPA in Research and Development Programs and Activities

§ 6.600 Purpose.

This subpart amplifies the general EPA policies and procedures described in Subparts A through D by providing procedures for compliance with NEPA on actions undertaken by the Office of Research and Development (ORD).

§ 6.602 Definitions.

(a) "Work plan." A document which defines and schedules all projects required to fulfill the objectives of the program plan.

(b) "Program plan." An overall planning document for a major research area which describes one or more research objectives, including outputs and target completion dates, as well as person-year and dollar resources.

(c) "Appropriate program official." The official at each decision level within ORD to whom the Assistant Administrator delegates responsibility for NEPA compliance.

(d) "Exemption certification." A certified statement delineating those actions specifically exempted from NEPA compliance by existing legislation.

§ 6.604 Applicability.

The requirements of this subpart are applicable to administrative actions undertaken to approve program plans, work plans, and projects, except those plans and projects excluded by existing legislation. However, no administrative actions are excluded from the additional procedures in § 6.214 of this part concerning historic sites, wetlands, coastal zones, wild and scenic rivers, floodplains or fish and wildlife.

§ 6.608 Criteria for determining when to prepare EIS's.

(a) An EIS shall be prepared by ORD when any of the criteria in § 6.200 apply or when:

(1) The action will have significant adverse impacts on public parks, wetlands, floodplains, coastal zones, wildlife habitats, or areas of recognized scenic or recreational value.

(2) The action will significantly deface an existing residential area.

(3) The action may directly or through induced development have a significant adverse effect upon local ambient air quality, local ambient noise levels, sur-

face or groundwater quality; and fish, wildlife or their natural habitats.

(4) The treated effluent is being discharged into a body of water where the present classification is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality to meet the requirements of these uses.

(5) The project consists of field tests involving the introduction of significant quantities of: toxic or polluting agricultural chemicals, animal wastes, pesticides, radioactive materials, or other hazardous substances into the environment by ORD, its grantees or its contractors.

(6) The action may involve the introduction of species or subspecies not indigenous to an area.

(7) There is a high probability of an action ultimately being implemented on a large scale, and this implementation may result in significant environmental impacts.

(8) The project involves commitment to a new technology which is significant and may restrict future viable alternatives.

(b) An EIS will not usually be needed when:

(1) The project is conducted completely within a laboratory or other facility, and external environmental effects have been minimized by methods for disposal of laboratory wastes and safeguards to prevent hazardous materials entering the environment accidentally; or

(2) The project is a relatively small experiment or investigation that is part of a non-Federally funded activity of the private sector, and it makes no significant new or additional contribution to existing pollution.

§ 6.610 Procedures for compliance with NEPA.

EIS related activities for compliance with NEPA will be integrated into the decision levels of ORD's research planning system to assure managerial control. This control includes those administrative actions which do not come under the applicability of this subpart by assuring that they are made the subject of an exemption certification and filed with the Office of Public Affairs (OPA). ORD's internal procedures provide details for NEPA compliance.

(a) *Environmental assessment.* (1) Environmental assessments shall be submitted with all grant applications and all unsolicited contract proposals. The assessment shall contain the same information required for EIS's in § 6.304. Copies of § 6.304 (or more detailed guidance when available) and a notice of the requirement for assessment shall be included in all grant application kits and attached to letters concerning the submission of unsolicited proposals.

(2) In the case of competitive contracts, assessments need not be submitted by potential contractors since the NEPA procedures must be completed before a request for proposal (RFP) is issued. If there is a question concerning

the need for an assessment, the potential contractor should contact the official responsible for the contract.

(b) *Environmental review.* (1) At the start of the planning year, an environmental review will be performed for each program plan with its supporting substructures (work plans and projects) before incorporating them into the ORD program planning system, unless they are excluded from review by existing legislation. This review is an evaluation of the potentially adverse environmental effects of the efforts required by the program plan. The criteria in § 6.608 shall be used in conducting this review. Each program plan with its supporting substructures which does not have significant adverse impacts may be dismissed from further current year environmental considerations with a single negative declaration. Any supporting substructures of a program plan which cannot be dismissed with the parent plan shall be reviewed at the appropriate subordinate levels of the planning system for NEPA compliance.

(i) All continuing program plans and supporting substructures, including those previously dismissed from consideration, will be reevaluated annually for NEPA compliance. An environmental review will coincide with the annual planning cycle and whenever a major redirection of a parent plan is undertaken. All NEPA-associated documents will be updated as appropriate.

(ii) All approved program plans and supporting substructures, less budgetary data, will be filed in the OPA with a notice of intent or negative declaration and environmental appraisal.

(iii) Later plans and/or projects, added to fulfill the mission objectives but not identified at the time the program plans were approved, will be subjected to the same NEPA requirements for environmental assessments and/or reviews.

(iv) Those projects subjected to environmental assessments as outlined in paragraph (a) of this section and not exempt under existing legislation also shall undergo an environmental review before work begins.

(c) *Notice of intent and EIS.*

(1) If the reviews conducted according to paragraph (b) of this section reveal a potentially significant adverse effect on the environment and the adverse impact cannot be eliminated by re-planning, the appropriate program official shall, after making sure the project is to be funded, issue a notice of intent according to § 6.206, and through proper organizational channels, shall request the Regional Administrator to assist him in the preparation and distribution of the EIS.

(2) As soon as possible after release of the notice of intent, the appropriate program official shall prepare a draft EIS using the criteria in Subpart B, § 6.208 and Subpart C. Through proper organizational channels, he shall request the Regional Administrator to assist him in the

preparation and distribution of the draft EIS.

(3) The appropriate program official shall prepare final EIS's according to criteria in Subpart B, § 6.210 and Subpart C.

(4) All draft and final EIS's shall be sent through the proper organizational channels to the Assistant Administrator for ORD for approval. The approved statements then will be distributed according to the procedures in Appendix C.

(d) *Negative declaration and environmental impact appraisal.* If an environmental review conducted according to paragraph (b) of this section reveals that proposed actions will not have significant adverse environmental impacts, the appropriate program official shall prepare a negative declaration and environmental impact appraisal according to Subpart B, § 6.212. Upon assurance that the program will be funded, the appropriate program official shall distribute the negative declaration as described in § 6.212 and make copies of the negative declaration and appraisal available in the OPA.

(e) *Project start.* As required by § 6.108, a contract or grant shall not be awarded for an extramural project, nor for continuation of what was previously an intramural project, until at least fifteen (15) working days after a negative declaration has been issued or thirty (30) days after forwarding the final EIS to the Council on Environmental Quality.

Subpart G—Guidelines for Compliance With NEPA in Solid Waste Management Activities

§ 6.700 Purpose.

This subpart amplifies the general policies and procedures described in Subparts A through D by providing additional procedures for compliance with NEPA on actions undertaken by the Office of Solid Waste Management Programs (OSWMP).

§ 6.702 Criteria for the preparation of environmental assessments and EIS's.

(a) *Assessment preparation criteria.* An environmental assessment need not be submitted with all grant applications and contract proposals. Studies and investigations do not require assessments. The following sections describe when an assessment is or is not required for other actions:

(1) *Grants.* (i) *Demonstration projects.* Environmental assessments must be submitted with all applications for demonstration grants that will involve construction, land use (temporary or permanent), transport, sea disposal, any discharges into the air or water, or any other activity having any direct or indirect effects on the environment external to the facility in which the work will be conducted. Preapplication proposals for these grants will not require environmental assessments.

(ii) *Training.* Grant applications for training of personnel will not require assessments.

(iii) *Plans.* Grant applications for the development of comprehensive State,

interstate, or local solid waste management plans will not require environmental assessments. A detailed analysis of environmental problems and effects should be part of the planning process, however.

(2) *Contracts.* (i) *Sole-source contract proposals.* Before a sole-source contract can be awarded, an environmental assessment must be submitted with a bid proposal for a contract which will involve construction, land use (temporary or permanent), sea disposal, any discharges into the air or water, or any other activity that will directly or indirectly affect the environment external to the facility in which the work will be performed.

(ii) *Competitive contract proposals.* Assessments generally will not be required on competitive contract proposals.

(b) *EIS preparation criteria.* The responsible official shall conduct an environmental review on those OSWMP projects on which an assessment is required or which may have effects on the environment external to the facility in which the work will be performed. The criteria in § 6.200 shall be utilized in determining whether an EIS need be prepared.

§ 6.704 Procedures for compliance with NEPA.

(a) *Environmental assessment.* (1) Environmental assessments shall be submitted to EPA according to procedures in § 6.702. If there is a question concerning the need for an assessment, the potential contractor or grantee should consult with the appropriate project officer for the grant or contract.

(2) The assessment shall contain the same sections specified for EIS's in § 6.304. Copies of § 6.304 (or more detailed guidance when available) and a notice alerting potential grantees and contractors of the assessment requirements in § 6.702 shall be included in all grant application kits, attached to letters concerning the submission of unsolicited proposals, and included with all RFP's.

(b) *Environmental review.* An environmental review will be conducted on all projects which require assessments or which will affect the environment external to the facility in which the work will be performed. This review must be conducted before a grant or contract award is made on an extramural project or before an intramural project begins. The guidelines in § 6.200 will be used to determine if the project will have any significant environmental effects. This review will include an evaluation of the assessment by both the responsible official and the appropriate Regional Administrator. The Regional Administrator's comments will include his recommendations on the need for an EIS. No detailed review or documentation is required on projects for which assessments are not required and which will not affect the environment external to a facility.

(c) *Notice of intent and EIS.* If any of the criteria in § 6.200 apply, the responsible official will assure that a notice

of intent and a draft EIS are prepared. The responsible official may request the appropriate Regional Administrator to assist him in the distribution of the NEPA-associated documents. Distribution procedures are listed in Appendix C.

(d) *Negative declaration and environmental impact appraisal.* If the environmental review indicated no significant environmental impacts, the responsible official will assure that a negative declaration and environmental appraisal are prepared. These documents need not be prepared for projects not requiring an environmental review.

(e) The EIS process for the Office of Solid Waste Management Programs is shown graphically in Exhibit 7.

Subpart H—Guidelines for Compliance With NEPA in Construction of Special Purpose Facilities and Facility Renovations

§ 6.300 Purpose.

This subpart amplifies general EPA policies and procedures described in Subparts A through D by providing detailed procedures for the preparation of EIS's on construction and renovation of special purpose facilities.

§ 6.302 Definitions.

(a) "Special purpose facility." A building or space, including land incidental to its use, which is wholly or predominantly utilized for the special purpose of an agency and not generally suitable for other uses, as determined by the General Services Administration.

(b) "Program of requirements." A comprehensive document (booklet) describing program activities to be accomplished in the new special purpose facility or improvement. It includes architectural, mechanical, structural, and space requirements.

(c) "Scope of work." A document similar in content to the program of requirements but substantially abbreviated. It is usually prepared for small-scale projects.

§ 6.304 Applicability.

(a) *Actions covered.* These guidelines apply to all new special purpose facility construction, activities related to this construction (e.g., site acquisition and clearing), and any improvements or modifications to facilities having potential environmental effects external to the facility, including new construction and improvements undertaken and funded by the Facilities Management Branch, Facilities and Support Services Division, Office of Administration; by a regional office; or by a National Environmental Research Center.

(b) *Actions excluded.* This subpart does not apply to those activities of the Facilities Management Branch, Facilities and Support Services Division, for which the branch does not have full fiscal responsibility for the entire project. This includes pilot plant construction, land acquisition, site clearing and access road construction where the Facilities Management Branch's activity is only

supporting a project financed by a program office. Responsibility for considering the environmental impacts of such projects rests with the office managing and funding the entire project. Other subparts of this regulation apply depending on the nature of the project.

§ 6.303 Criteria for the preparation of environmental assessments and EIS's.

(a) *Assessment preparation criteria.* The responsible official shall request an environmental assessment from a construction contractor or consulting architect/engineer employed by EPA if he is involved in the planning, construction or modification of special purpose facilities when his activities have potential environmental effects external to the facility. Such modifications include but are not limited to: facility additions, changes in central heating systems or wastewater treatment systems, and land clearing for access roads and parking lots.

(b) *EIS preparation criteria.* The responsible official shall conduct an environmental review of all actions involving construction of special purpose facilities and improvements to these facilities. The guidelines in § 6.200 shall be used to determine whether an EIS shall be prepared.

§ 6.310 Procedures for compliance with NEPA.

(a) *Environmental review and assessment.* (1) An environmental review shall be conducted when the program of requirements or scope of work has been completed for the construction, improvement, or modification of special purpose facilities. For special purpose facility construction, the Chief, Facilities Management Branch, shall request the assistance of the appropriate program office and Regional Administrator in the review. For modifications and improvements, the appropriate responsible official shall request assistance in making the review from other cognizant EPA offices.

(2) Any assessments requested shall contain the same sections listed for EIS's in § 6.304. Contractors and consultants shall be notified in contractual documents when an assessment must be prepared.

(b) *Notice of intent, EIS, and negative declaration.* The responsible official shall decide at the completion of the environmental review whether there may be any significant environmental impacts. If there could be significant environmental impacts, a notice of intent and an EIS shall be prepared according to the procedures in § 6.206. If there may not be any significant environmental impacts, a negative declaration and environmental impact appraisal shall be prepared according to the procedures in § 6.212.

(c) *Project start.* As required by § 6.108, a contract shall not be awarded or construction-related activities begun until at least fifteen (15) working days after release of a negative declaration, or until thirty (30) days after forwarding the final EIS to the Council on Environmental Quality.

EXHIBIT 1

NOTICE OF INTENT TRANSMITTAL MEMORANDUM SUGGESTED FORMAT

(Date) _____
ENVIRONMENTAL PROTECTION AGENCY
(Appropriate Office) _____
(Address, City, State, Zip Code) _____
To All Interested Government Agencies and Public Groups:
As required by guidelines for the preparation of environmental impact statements (EIS's), attached is a notice of intent to prepare an EIS for the proposed EPA action described below:

(Official Project Name and Number) _____
(City, State) _____
If your organization needs additional information or wishes to participate in the preparation of the draft EIS, please advise the (appropriate office, city, State).
Very truly yours,

(Appropriate EPA Official) _____
(List Federal, State, and local agencies to be solicited for comment.)
(List public action groups to be solicited for comment.)

NOTICE OF INTENT SUGGESTED FORMAT

NOTICE OF INTENT—ENVIRONMENTAL PROTECTION AGENCY

- Project location:
City _____
County _____
State _____
- Proposed EPA action:

- Issues involved:

- Estimated project costs:
Federal Share (total) \$ _____
Contract \$ _____ Grant \$ _____ Other \$ _____
Applicant share (if any):
(Name) \$ _____
Other (specify) \$ _____
Total \$ _____
- Period covered by project:
Start date: _____
(Original date, if project covers more than one year)
Dates of different project phases: _____
Approximate end date: _____
- Estimated application filing date: _____

EXHIBIT 2

PUBLIC NOTICE AND NEWS RELEASE SUGGESTED FORMAT

PUBLIC NOTICE

The Environmental Protection Agency (originating office) (will prepare, will not prepare, has prepared) a (draft, final) environmental impact statement on the following project:

(Official Project Name and Number) _____
(Purpose of Project) _____
(Project Location, City, County, State) _____

(Where EIS or negative declaration and environmental impact appraisal can be obtained)

This notice is to implement EPA's policy of encouraging public participation in the decision-making process on proposed EPA actions. Comments on this document may be submitted to (full address of originating office).

EXHIBIT 3

NEGATIVE DECLARATION SUGGESTED FORMAT

(Date)

ENVIRONMENTAL PROTECTION AGENCY

(Appropriate Office)

(Address, City, State, Zip Code)

To All Interested Government Agencies and Public Groups:

As required by guidelines for the preparation of environmental impact statements (EIS's), an environmental review has been performed on the proposed EPA action below:

(Official Project Name and Number)

(Potential Agency Financial Share)

(Project Location: City, County, State)

(Other Funds Included)

PROJECT DESCRIPTION, ORIGINATOR, AND PURPOSE

(Include a map of the project area and a brief narrative summarizing the growth the project will serve, the percent of vacant land the project will serve, major primary and secondary impacts of the project, and the purpose of the project.)

The review process did not indicate significant environmental impacts would result from the proposed action or significant adverse impacts have been eliminated by making changes in the project. Consequently, a preliminary decision not to prepare an EIS has been made.

This action is taken on the basis of a careful review of the engineering report, environmental impact assessment, and other supporting data, which are on file in the above office with the environmental impact appraisal and are available for public scrutiny upon request. Copies of the environmental impact appraisal will be sent at cost on your request.

Comments supporting or disagreeing with this decision may be submitted for consideration by EPA. After evaluating the comments received, the Agency will make a final decision; however, no administrative action will be taken on the project for at least fifteen (15) working days after release of the negative declaration.

Sincerely,

(Appropriate EPA Official)

EXHIBIT 4

ENVIRONMENTAL IMPACT APPRAISAL SUGGESTED FORMAT

A. Identify Project.

Name of Applicant: _____
Address: _____
Project Number: _____

B. Summarize Assessment.

1. Brief description of project: _____
2. Probable impact of the project on the environment: _____
3. Any probable adverse environmental effects which cannot be avoided: _____
4. Alternatives considered with evaluation of each: _____
5. Relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity: _____
6. Steps to minimize harm to the environment: _____
7. Any irreversible and irretrievable commitment of resources: _____
8. Public objections to project, if any, and their resolution: _____
9. Agencies consulted about the project: _____

State representative's name: _____
Local representative's name: _____
Other: _____

C. Reasons for concluding there will be no significant impacts.

(Signature of appropriate official)
(Date)

EXHIBIT 5

COVER SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS (Draft, Final)

ENVIRONMENTAL IMPACT STATEMENT

(Describe title of project plan and give identifying number)

Prepared by: (Responsible Agency Office)

Approved by: (Responsible Agency Official)
(Date)

EXHIBIT 6

SUMMARY SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS

(Check One)
() Draft
() Final

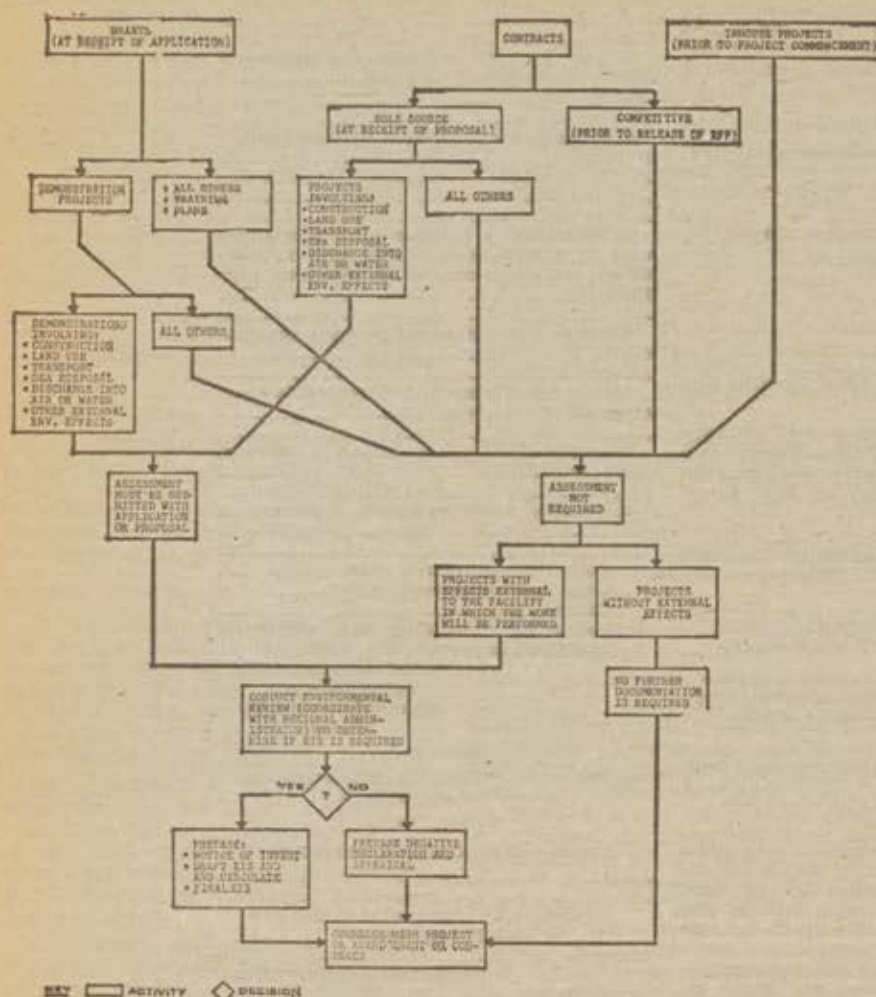
ENVIRONMENTAL PROTECTION AGENCY

(Responsible Agency Office)

1. Name of action. (Check one)
() Administrative action.
() Legislative action.
2. Brief description of action indicating what States (and counties) are particularly affected.
3. Summary of environmental impact and adverse environmental effects.
4. List alternatives considered.
5. a. (for draft statements) List all Federal State, and local agencies and other comments have been requested.
b. (for final statements) List all Federal State, and local agencies and other sources from which written comments have been received.
6. Dates draft statement and final statement made available to Council on Environmental Quality and public.

EXHIBIT 7
FLOWCHART FOR OSWMP

PROCEDURES FOR DETERMINING IF AN EIS IS REQUIRED ON OSWMP PROJECTS



APPENDIX A

CHECKLIST FOR ENVIRONMENTAL REVIEWS

Areas to be considered, when appropriate, during an environmental review include, but are not limited to, the items on this checklist, based on Appendix II of the CEQ guidelines for the preparation of environmental impact statements which appeared in the Federal Register August 1, 1973. The classification of items is not mandatory.

I. Natural environment. Consider the impacts of a proposed action on air quality, water supply and quality, soil conservation and hydrology, fish, and wildlife populations, fish and wildlife habitats, solid waste disposal, noise levels, radiation, and hazardous substances use and disposal.

II. Land use planning and management. Consider the impacts of a proposed action on energy supply and natural resources development; protection of environmentally critical areas, such as floodplains, wetlands, beaches and dunes, unstable soils, steep slopes and aquifer recharge areas, coastal area land use; and redevelopment and construction in built-up areas.

III. Socioeconomic environment. Consider the impacts of a proposed action on population density changes, congestion mitigation, neighborhood character and cohesion, low

income populations, outdoor recreation, industrial/commercial/residential development and tax rates, and historic, architectural and archaeological preservation.

APPENDIX B

RESPONSIBILITIES

I. General responsibilities. (a) *Responsible official.* (1) Requires contractors and grantees to submit environmental assessments and related documents needed to comply with NEPA, and assures environmental reviews are conducted on proposed EPA projects at the earliest possible point in EPA's decision-making process.

(2) When required, assures that draft EIS's are prepared and distributed at the earliest possible point in EPA's decision-making process, their internal and external review is coordinated, and final EIS's are prepared and distributed.

(3) When an EIS is not prepared, assures that negative declarations and environmental appraisals are prepared and distributed for those actions requiring them.

(4) Consults with appropriate officials identified in § 6.214 of this part.

(5) Consults with the Office of Federal Activities on actions involving unresolved conflicts with other Federal agencies.

(b) *Office of Federal Activities.* (1) Provides EPA with policy guidance and assures that EPA offices establish and maintain adequate administrative procedures to comply with this part.

(2) Monitors the overall timeliness and quality of the EPA effort to comply with this part.

(3) Provides assistance to responsible officials as required.

(4) Coordinates the training of personnel involved in the review and preparation of EIS's and other NEPA-associated documents.

(5) Acts as EPA liaison with the Council on Environmental Quality and other Federal and State entities on matters of EPA policy and administrative mechanisms to facilitate external review of EIS's, to determine lead agency and to improve the uniformity of the NEPA procedures of Federal agencies.

(6) Advises the Administrator and Deputy Administrator on projects which involve more than one EPA office, are controversial, are nationally significant, or "pioneer" EPA policy, when these projects have had or should have an EIS prepared on them.

(c) *Office of Public Inquiries.* Assists the Office of Federal Activities and responsible officials by answering the public's queries on the EIS process and on specific EIS's and by directing requests for copies of specific documents to the appropriate regional office or program.

(d) *Office of Public Affairs.* Analyzes the present procedures for public participation, and develops and recommends to the Office of Federal Activities a program to improve those procedures and increase public participation.

(e) *Regional Office Division of Public Affairs.* (1) Assists the responsible official or his designee on matters pertaining to negative declarations, notices of intent, press releases, and other public notification procedures.

(2) Assists the responsible official or his designee by answering the public's queries on the EIS process and on specific EIS's, and by filling requests for copies of specific documents.

(f) *Offices of the Assistant Administrators and Regional Administrators.* (1) Provides specific policy guidance to their respective offices and assures that those offices establish and maintain adequate administrative procedures to comply with this part.

(2) Monitors the overall timeliness and quality of their respective office's efforts to comply with this part.

(3) Acts as liaison between their offices and the Office of Federal Activities and between their offices and other Assistant Administrators or Regional Administrators on matters of agencywide policy and procedures.

(4) Advises the Administrator and Deputy Administrator through the Office of Federal Activities on projects or activities within their respective areas of responsibilities which involve more than one EPA office, are controversial, are nationally significant, or "pioneer" EPA policy, when these projects have had or should have an EIS prepared on them.

(g) *The Office of Legislation.* (1) Provides the necessary liaison with Congress.

(2) Coordinates the preparation of EIS's required on reports on legislation originating outside EPA. (See § 6.106(d)).

(h) *The Office of Planning and Evaluation.* Coordinates the preparation of EIS's required on EPA legislative proposals. (See § 6.106(d)).

II. Responsibilities for Title II Construction Grants Program (Subpart E). (a) *Responsible official.* The responsible official for EPA actions covered by this subpart is the Regional Administrator. The responsibilities

of the Regional Administrator in addition to those in Appendix B.I. are to:

(1) Assist the Office of Federal Activities in coordinating the training of personnel involved in the review and preparation of NEPA-associated documents.

(2) Require grant applicants and those who have submitted plans for approval to provide the information the regional office requires to comply with these guidelines.

(3) Consult with the Office of Federal Activities concerning works or plans which significantly affect more than one regional office, are controversial, are of national significance or "pioneer" EPA policy, when these works have had or should have had an EIS prepared on them.

(b) *Assistant Administrator.* The responsibilities of the Office of the Assistant Administrator, as described in Appendix B.I, shall be assumed by the Assistant Administrator for Water and Hazardous Materials for EPA actions covered by this subpart.

(c) *Oil and Special Materials Control Division, Office of Water Program Operations.* coordinates all activities and responsibilities of the Office of Water Program Operations concerned with preparation and review of EIS's. This includes providing technical assistance to the Regional Administrators on EIS's and assisting the Office of Federal Activities in coordinating the training of personnel involved in the review and preparation of NEPA-associated documents.

(d) *Public Affairs Division, Regional Offices.* The responsibilities of the regions' Public Affairs Divisions, in addition to those in Appendix B.I, are to:

(1) Assist the Regional Administrator in the preparation and dissemination of NEPA-associated documents.

(2) Collaborate with the Headquarters Office of Public Affairs to analyze procedures in the regions for public participation and to develop and recommend to the Office of Federal Activities a program to improve those procedures.

III. *Responsibilities for Research and Development Programs (Subpart F).* The Assistant Administrator for Research and Development, in addition to those responsibilities outlined in Appendix B.I(a), will also assume the responsibilities described in Appendix B.I(f).

IV. *Responsibilities for Solid Waste Management Programs (Subpart G).* (a) *Responsible Official.* The responsible official for EPA actions covered by this subpart is the Deputy Assistant Administrator for Solid Waste Management Programs. The responsibilities of this official, in addition to those in Appendix B.I(a), are to:

(1) Assist the Office of Federal Activities in coordinating the training of personnel involved in the review and preparation of all NEPA-associated documents.

(2) Advise the Assistant Administrator for Air and Waste Management concerning projects which significantly affect more than one regional office, are controversial, are nationally significant, or "pioneer" EPA policy.

V. *Responsibilities for Special Purpose Facilities and Facility Renovation Programs (Subpart H).*

(a) *Responsible official.* The responsible official for new construction and modification of special purpose facilities is as follows:

(1) The Chief, Facilities Management Branch, Data and Support Systems Division, shall be the responsible official on all new

construction of special purpose facilities and on all improvement and modification projects for which the Facilities Management Branch has received a funding allowance.

(2) The Regional Administrator shall be the responsible official on all improvement and modification projects for which the regional office has received the funding allowance.

(3) The Center Directors shall be the responsible officials on all improvement and modification projects for which the National Environmental Research Centers have received the funding allowance.

(b) The responsibilities of the responsible officials, in addition to those in Appendix B.I, are to:

(1) Ensure that environmental assessments are submitted when requested, that environmental reviews are conducted on all projects, and EIS's are prepared and circulated when there will be significant impacts.

(2) Assist the Office of Federal Activities in coordinating the training of personnel involved in the review and preparation of NEPA-associated documents.

APPENDIX C

DISTRIBUTION AND AVAILABILITY OF DOCUMENTS

I. *Negative Declaration.* (a) The responsible official shall distribute two copies of each negative declaration to:

(1) The appropriate Federal, State and local agencies and to the appropriate State and areawide clearinghouses.

(2) The Office of Legislation, the Office of Public Affairs and the Office of Federal Activities.

(3) The headquarters EIS coordinator for the program office originating the document. When the originating office is a regional office and the action is related to water quality management, one copy should be forwarded to the Oil and Special Materials Control Division, Office of Water Program Operations.

(b) The responsible official shall distribute one copy of each negative declaration to:

(1) Local newspapers and other local mass media.

(2) *Interested persons on request.* If it is not practical to send copies to all interested persons, make the document available through local libraries or post offices, and notify individuals that this action has been taken.

(c) The responsible official shall have a copy of the negative declaration and any documents supporting the negative declaration available for public review at the originating office.

II. *Environmental Impact Appraisal.* (a) The responsible official shall have the environmental impact appraisal available when the negative declaration is distributed and shall forward one copy to the headquarters EIS coordinator for the program office originating the document and to any other Federal or State agency which requests a copy.

(b) The responsible official shall have a copy of the environmental impact appraisal available for public review at the originating office and shall provide copies at cost to persons who request them.

III. *Notice of Intent.* (a) The responsible official shall forward one copy of the notice of intent to:

(1) The appropriate Federal, State and local agencies and to the appropriate State, regional and metropolitan clearing houses,

(2) Potentially interested persons,

(3) The Offices of Federal Activities, Public Affairs and Legislation.

(4) The headquarters Grants Administration Division, Grants Information Branch.

(5) The headquarters EIS coordinator for the program office originating the notice. When the originating office is a regional office and the action is related to water quality management, one copy should be forwarded to the Oil and Special Materials Control Division, Office of Water Program Operations.

IV. *Draft EIS's.* (a) The responsible official shall send two copies of the draft EIS to:

(1) The Office of Federal Activities.

(2) The headquarters EIS coordinator for the program office originating the document. When the originating office is a regional office and the project is related to water quality management, send two copies to the Oil and Special Materials Control Division, Office of Water Program Operations.

(b) If none of the above offices requests any changes within ten (10) working days after notification, the responsible official shall:

(1) Send five copies of the draft EIS to CEQ.

(2) Send two copies of the draft EIS to the Office of Public Affairs and to the Office of Legislation.

(3) Send two copies of the draft EIS to the appropriate offices of reviewing Federal agencies that have special expertise or jurisdiction by law with respect to any impacts involved. CEQ's guidelines (40 CFR 1500.9 and Appendices II and III) list those agencies to which draft EIS's will be sent for official review and comment.

(4) Send two copies of the draft EIS to the appropriate Federal, State, regional and metropolitan clearinghouses.

(5) Send one copy of the draft EIS to public libraries in the project area and interested persons. Post offices, city halls or courthouses may be used as distribution points if public library facilities are not available.

(c) The responsible official shall make a copy of the draft EIS available for public review at the originating office and at the Office of Public Affairs.

V. *Final EIS.* (a) The responsible official shall distribute the final EIS to the following offices, agencies and interested persons:

(1) Five copies to CEQ.

(2) Two copies to the Office of Public Affairs, Legislation and Federal Activities.

(3) Two copies to the headquarters EIS coordinator for the program office originating the document.

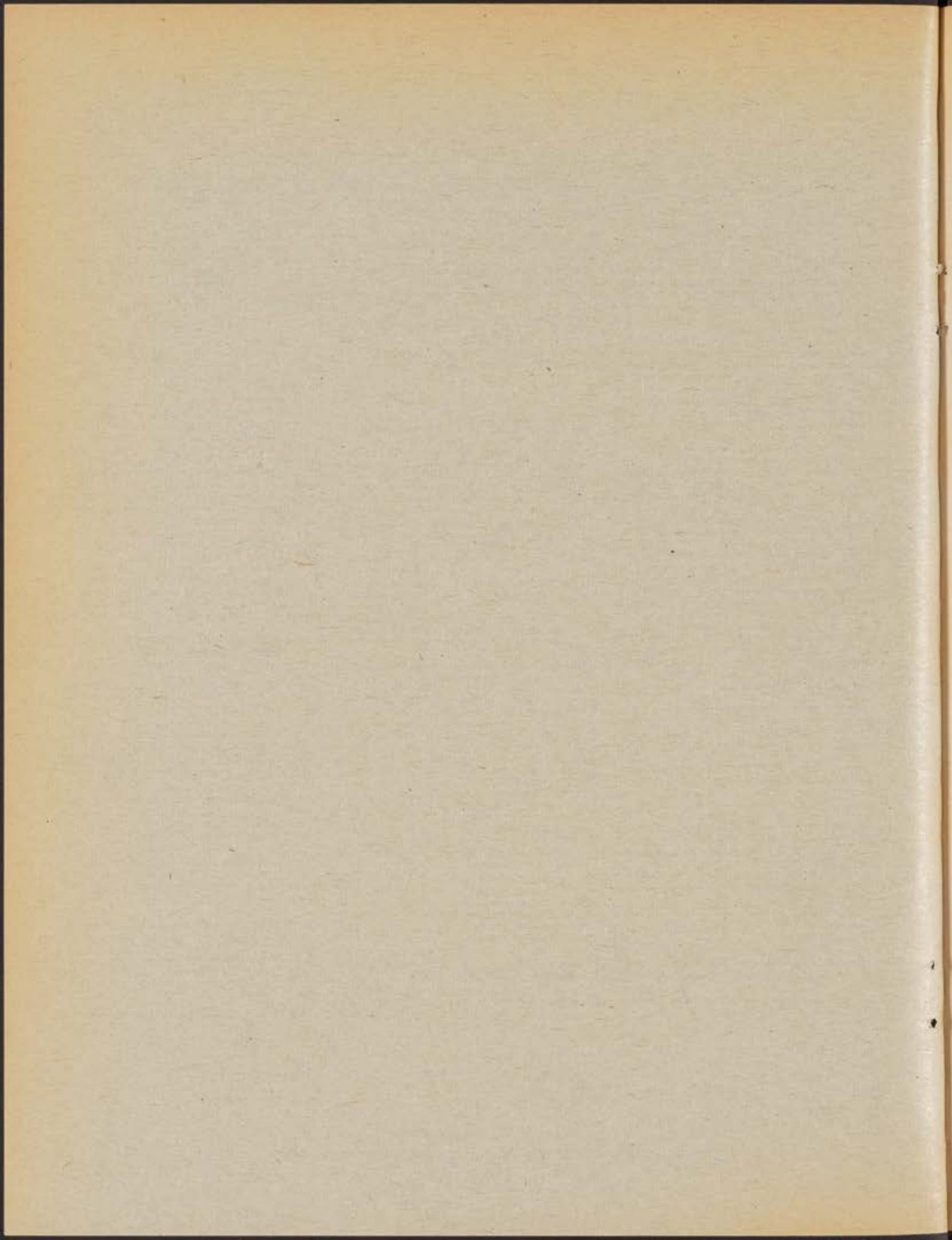
(4) One copy to Federal, State and local agencies and interested persons who made substantive comments on the draft EIS or requested a copy of the final EIS.

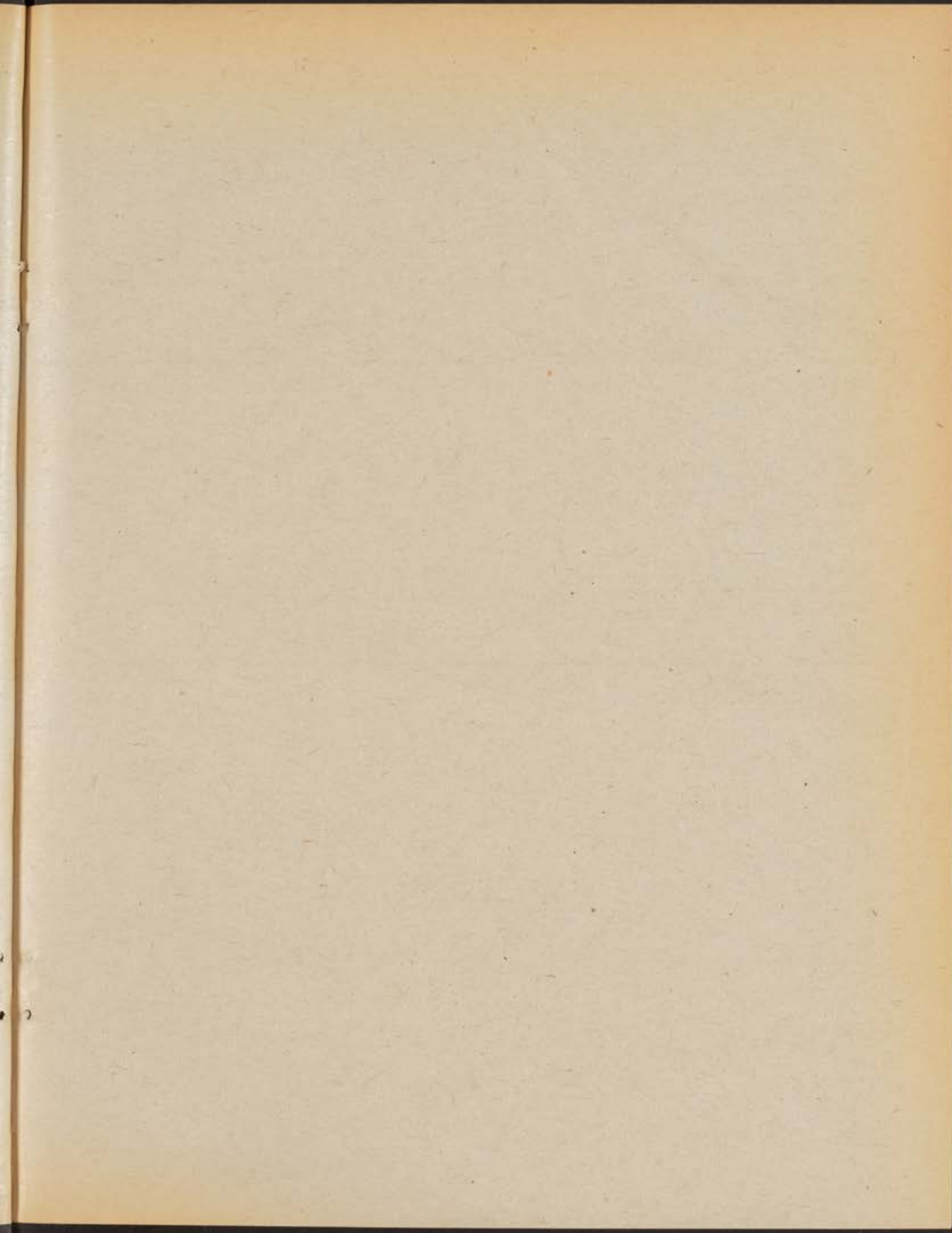
(5) One copy to a grant applicant.

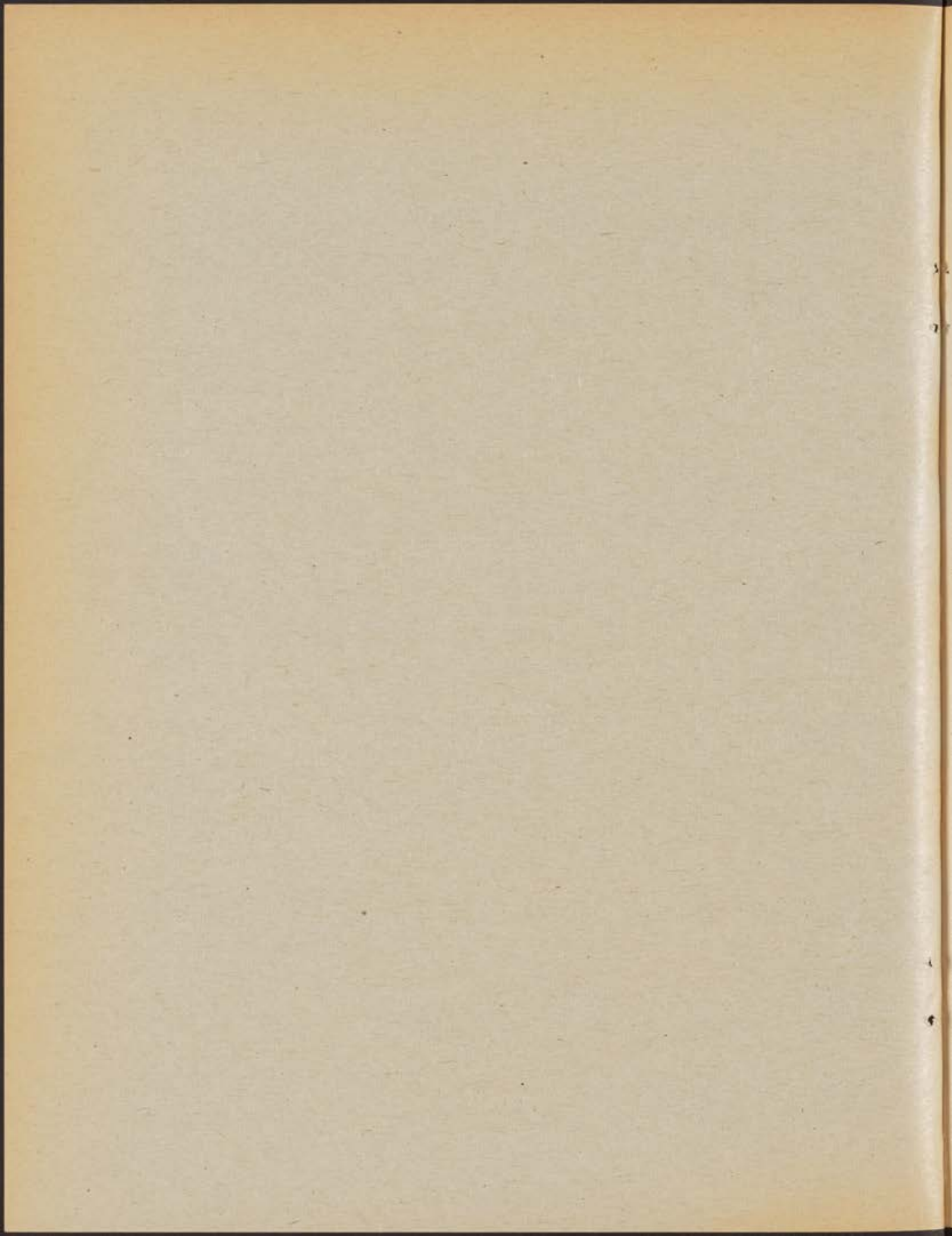
(b) The responsible official shall make a copy of the final EIS available for public review at the originating office and at the Office of Public Affairs.

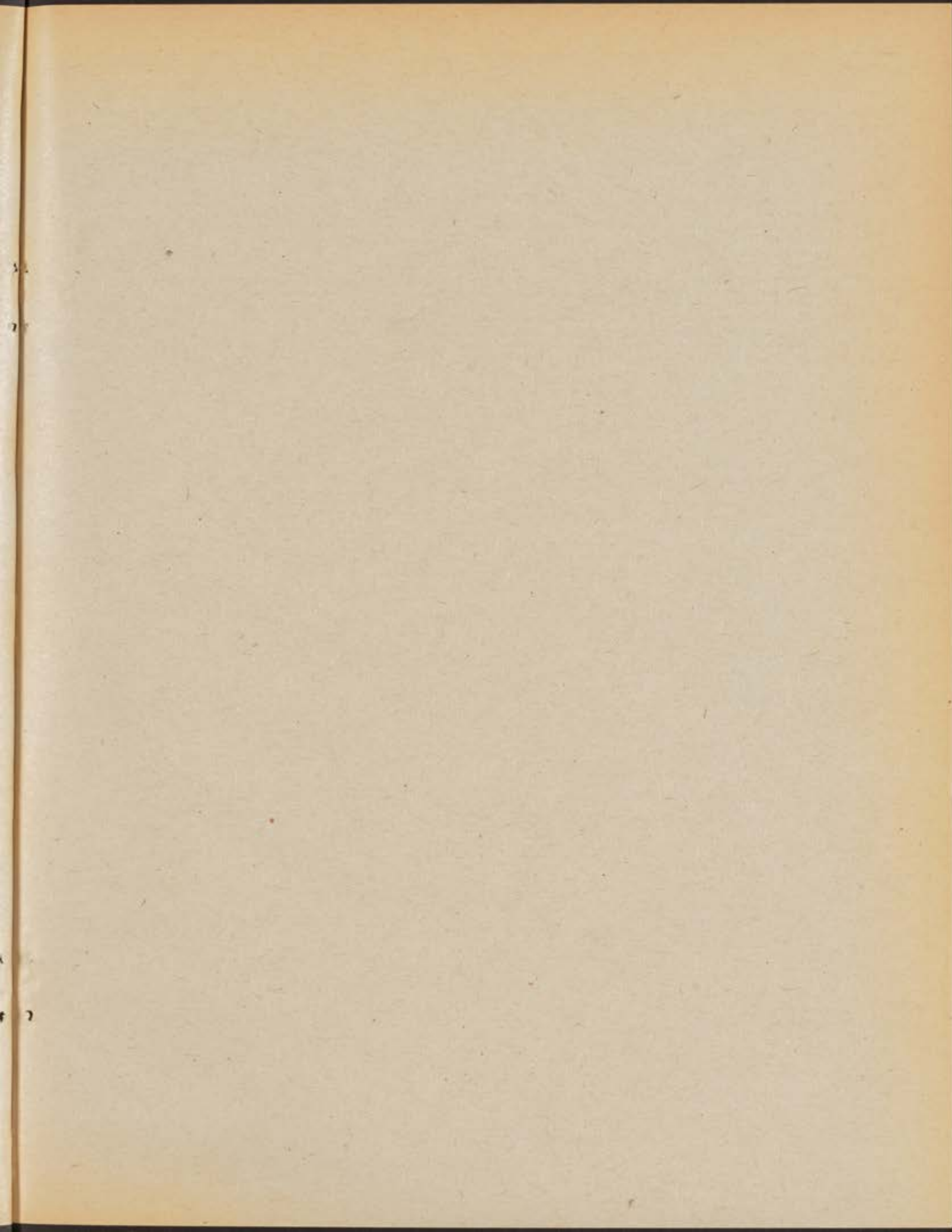
VI. *Legislative EIS.* Copies of the legislative EIS shall be distributed by the responsible official according to the procedures in section IV(b) of this appendix. In addition, the responsible official shall send two copies of the EIS to the Office of Federal Activities and the EIS coordinator of the originating office.

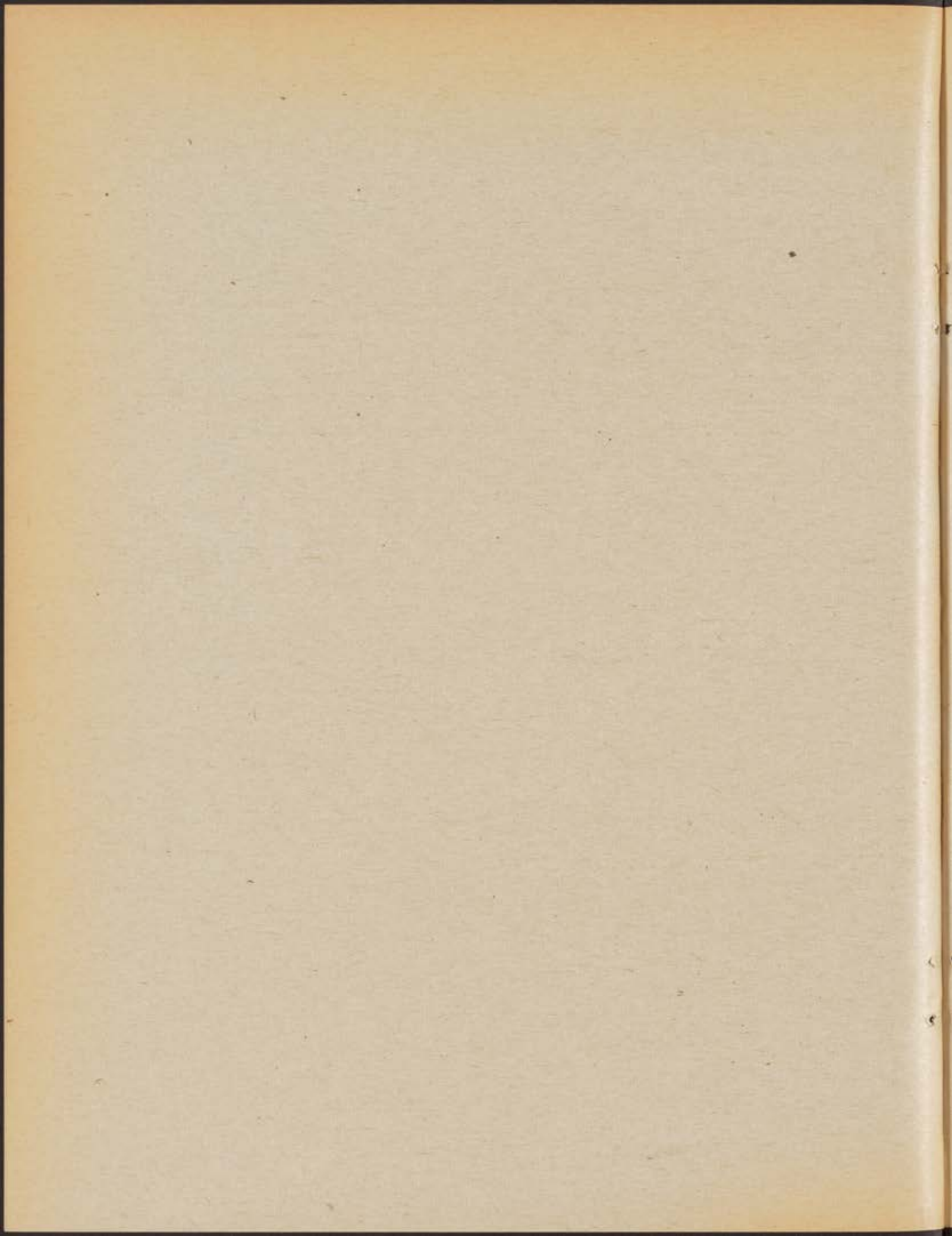
[FR Doc.75-9553 Filed 4-11-75;8:45 am]

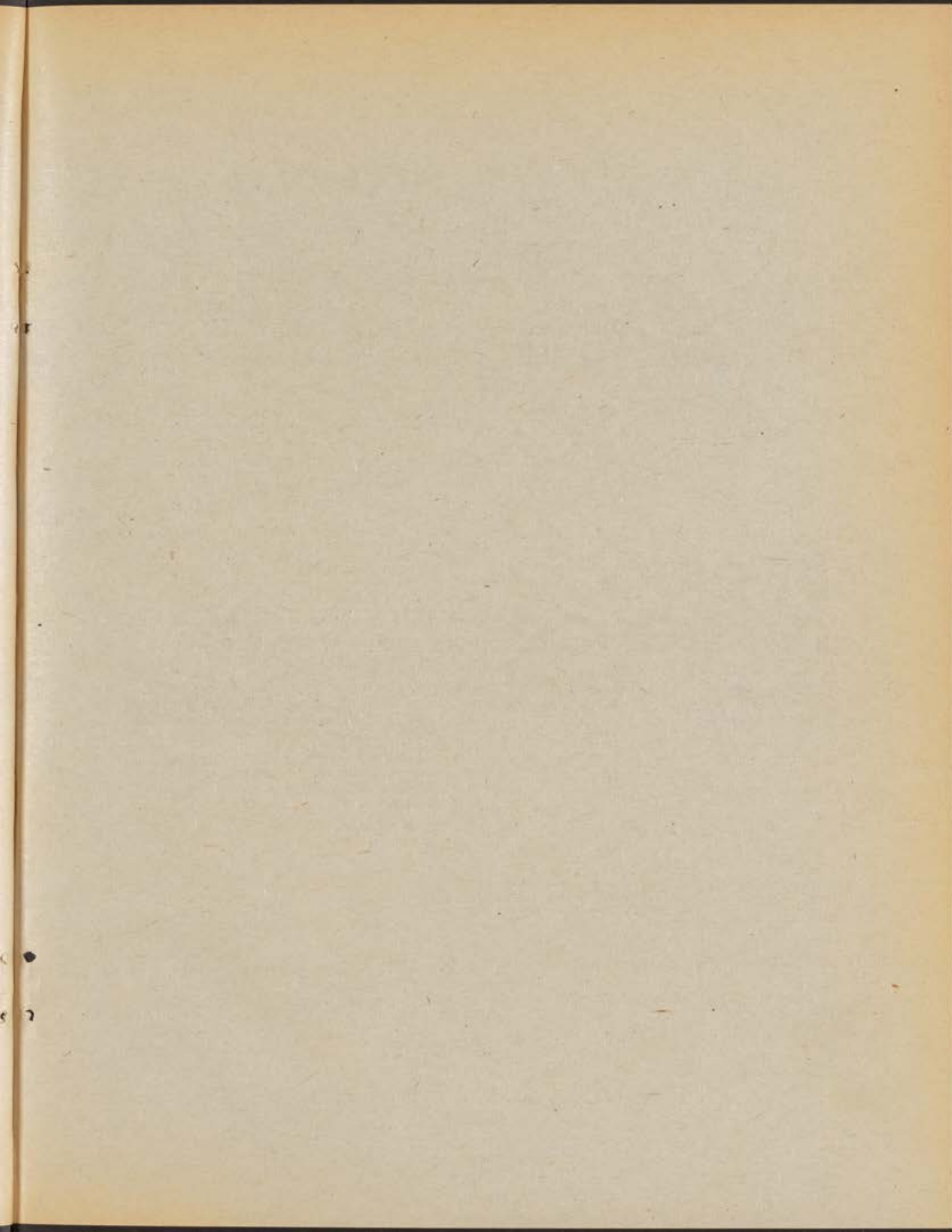














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